

LICENSING SUB-COMMITTEE

Minutes of the proceedings at a meeting of the Licensing Sub-Committee held in the District Council Chamber, South Lakeland House, Kendal, on Friday, 16 March 2018, at 10.00 a.m.

Present

Councillors

Sheila Eccles

Alvin Finch

John Holmes

An apology for absence was received from Councillor Helen Irving.

Officers

Patrick Cantley

Licensing Officer

Jason Habbershon

Committee Services/Scrutiny Officer

Nicola Hartley

Senior Solicitor

LS/7 ELECTION OF CHAIRMAN

RESOLVED – That Councillor John Holmes be elected Chairman for the meeting.

LS/8 APOLOGIES AND RECONSTITUTION OF MEMBERSHIP

Councillor Helen Irving having tendered an apology for absence, Councillor John Holmes, as substitute Member, took her place on the Sub-Committee.

LS/9 DECLARATIONS OF INTEREST

RESOLVED – That it be noted that no declarations of interest were raised.

LS/10 LOCAL GOVERNMENT ACT 1972 - EXCLUDED ITEMS

RESOLVED – That, should discussion be necessary, the item in Part II of the Agenda be dealt with following the exclusion of the press and public.

LS/11 INTRODUCTIONS

The Chairman made introductions and read out the procedure for the meeting.

LS/12 LICENSING ACT 2003 - REVIEW OF PREMISES LICENCE PL(A)525 - CAFE NAZ, 15-17 QUEEN STREET, ULVERSTON

The Licensing Officer presented a report which requested a review of Premises Licence PL(A)525 of Café Naz, otherwise known as NAAZ, 15-17 Queen Street, Ulverston. The application for the review had been received from Home Office Immigration Enforcement and related to the licensing objective of the prevention of crime and disorder. The Licensing Officer set out the options available to the Licensing Sub-Committee in relation to this licence review.

Paul Hannan, an Immigration Officer speaking as the applicant for the review of the premises licence, addressed the Sub-Committee. He explained the legislation behind Home Office Immigration Enforcement's powers and the impact that illegal working could have.

Note – Further information relating to the application was detailed in Appendix C in Part II of the Agenda which was excluded from inspection by members of the public in accordance with Section 100 (B) of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, and, in all the circumstances of the case, it was considered that the public interest in maintaining the exemption outweighed the public interest in disclosing it. Copies of the document were excluded, as it contained information as described in Schedule 12A of the Act as follows:-

- *Information relating to any individual. (Paragraph 1)*
- *Information which is likely to reveal the identity of an individual. (Paragraph 2)*
- *Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings (Paragraph 5)*

Note – In light of the likely disclosure of exempt information necessary to the consideration of this item, the Licensing Sub-Committee voted to move into Part II and exclude the press and public.

LS/13

PRESS AND PUBLIC

RESOLVED - That, under Section 100(A)(4) of the Local Government Act 1972, the press and public, with the exception of the applicant, the restaurant manager and director of the leaseholder of the property, as interested parties, and their representatives, be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12 A of the Act as amended by the Local Government (Access to Information) (Variation) Order 2006 by virtue of the paragraphs indicated.

LS/14

LICENSING ACT 2003 - REVIEW OF PREMISES LICENCE PL(A)525 - CAFE NAZ, 15-17 QUEEN STREET, ULVERSTON

- *Paragraph 1 - Information relating to any individual.*
- *Paragraph 2 - Information which is likely to reveal the identity of an individual.*
- *Paragraph 5 - Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.*

Following the exclusion of the press and public, Paul Hannan continued to present the case of Home Office Immigration Enforcement. He explained that the Immigration Act 2016 had amended the Licensing Act 2003 which had allowed Immigration Enforcement to put forward representations in relation to premises licences. He explained that an Illegal Working Compliance Order had been granted against Café Naz by Greater Manchester Magistrates' Court in July 2017. Mr Hannan circulated a copy of the Compliance Order.

Note – The Sub-Committee voted to adjourn the meeting at 10.30 a.m. to allow time for all parties present to read the Compliance Order and reconvened at 10.50 a.m.

Mr Hannan explained the previous incidences of illegal working which had occurred at the premises, and highlighted that other premises linked to Café Naz had also had civil penalties issued for the employment of illegal workers. The Sub-Committee noted that only evidence pertaining to Café Naz was relevant for the purposes of this review.

The Sub-Committee asked questions of clarification of Paul Hannan. He also explained that when the Compliance Order had been issued by Greater Manchester Magistrates' Court in July 2017 the Court should have notified South Lakeland District Council immediately. As this had not happened, Home Office Immigration Enforcement had instigated the review process.

Ms Tighe, a barrister acting on behalf of Café Naz's restaurant manager Mr Shajid Miah, an interested party, presented their case. She highlighted that a visit from Home Office Immigration Enforcement officers in February 2018, following the issuing of the Compliance Order, had found no illegal workers and submitted that, as the Order was being complied with by the licence holder, sufficient safeguards were present such that no further action should be required.

Ms Tighe provided additional clarification following queries from the Members of the Sub-Committee.

Shajid Miah provided additional information in response to a series of questions from the Licensing Officer.

Paul Hannan confirmed that he had no further comments to make.

Note – The Sub-Committee voted to re-admit the press and public.

LS/15 RE-ADMISSION OF PRESS AND PUBLIC

RESOLVED – That the press and public be re-admitted to the meeting.

LS/16 LICENSING ACT 2003 - REVIEW OF PREMISES LICENCE PL(A)525 - CAFE NAZ, 15-17 QUEEN STREET, ULVERSTON

The Licensing Officer and the restaurant manager's representative, Ms Tighe, then each provided a closing statement.

Note – The Sub-Committee passed a resolution to adjourn the meeting to exclude the press and public, in making its decision and retired in accordance with Resolution 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005 (as amended) in order to further consider the application.

The Sub-Committee, supported by the Senior Solicitor, withdrew to consider the circumstances put forward, and then reconvened to deliver the decision.

RESOLVED – That Premises Licence PL(A)525 be revoked with immediate effect.

Reasons for Decision

The Sub-Committee was of the view that Home Office Immigration Enforcement had proved during their evidence given to the Licensing Sub-Committee that the licensing objective with respect to the prevention of crime and disorder would be undermined as a result of the previous serious offence identified and investigated by the Home Office Immigration Enforcement, in particular:-

7th July 2017 when immigration officers encountered the person/s subject to UK immigration control who were working illegally.

One illegal worker was identified out of the 3 of workers present.

In addition on 08/10/2016 an enforcement visit was conducted to NAAZ RESTAURANT, 15 – 17 QUEEN STREET, ULVERSTON, LA12 7AF. Illegal workers were identified as working at the premises.

In particular the Sub-Committee was of the view that the licensing objective of prevention of crime and disorder would be undermined if a licence remained in place.

The Sub-Committee also took into account the Council's Statement of Licensing Policy and in particular Paragraph 9.5 of the Revised Guidance issued under section 182 of the Licensing Act 2003 states:-

"The Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State's behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly".

Paragraph 2.6 of the guidance clearly stipulates:

"The prevention of crime includes the prevention of immigration crime including illegal working on licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises".

Para 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises.....

- For employing a person who is disqualified from that work by reason of their immigration status in the UK;*

The Sub-Committee was not satisfied that the licensing objectives would not be undermined if the licence were to remain in place and were of the view that revocation of the licence was the only way to ensure that the licensing objective of the prevention of crime and disorder would not be undermined.

The Sub-Committee was concerned that neither the holder of the premises licence Anne Armer, nor the designated premises supervisor Rohim Ullah were in attendance.

Despite the existence of the Compliance Order and no further breach being reported by the Home Office in February 2018, the Sub-Committee was of the view that there was no evidence that the current licence holder would not undermine the licensing objective of the prevention of crime and disorder, given the concerns outlined by the Home Office.

The parties were informed of their right to appeal to the Magistrates' Court within 21 days of notification of this decision.

The meeting ended at 11.55 a.m.