

# **Licensing Sub-Committee Hearings**

Friday, 23 June 2017

**Attendees:**

**Substitutes:** No substitutes were recorded at the meeting

**Also Present:**

## **7 Appointment of Chairman**

RESOLVED that Councillor Cope be appointed Chairman.

## **8 Declarations of Interest**

Councillor Hogg (in respect of his position as a personal licence holder and his position at the Oak Tree Centre) declared his non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure 7(5).

## **9 RML**

Mrs White introduced the application and mentioned that additional paperwork had been circulated which included information relating to a transfer application but this application was not a matter that was before the Sub-Committee for consideration.

Mr Sparrow, on behalf of Essex Police, gave background information on the premises and the circumstances which had led to a review being requested. He explained that the takeaway was run by both father and son and although Mr Rahman Senior was the licence holder he now spent most of his time in Bangladesh. Mr Sparrow also informed the Sub-Committee that this was not the first time the premises had had issues; they had been advised by the Council that the annual fee for the premises licence had been paid late for the previous three years and had been suspended for non-payment of this fee.

Mr Sparrow informed the Sub-Committee that the Police had not been aware of any problems at the premises until the Immigration Office made an intelligence led raid on the property and found 3 illegal workers. No 'right to work' checks were made and all 3 workers were interviewed; 2 informed the police that they had no visas or right to work papers and wanted to return to Bangladesh. The third person had lodged an appeal with the Home Office which was still in the process of determination and he had the right to remain, subject to various conditions which included remaining in Luton. The Police regarded the use of such workers as modern day slavery and asked the Sub-Committee

not to under estimate the severity of the offence. Mr Sparrow confirmed that the Police were unaware of Mr Mohibur Rahman current whereabouts.

Mr Davis, Immigration Officer, whose statement in relation to the raid on the premises was included within the submission of the Police, addressed the Sub-Committee. He submitted a prohibition notice in relation to 3 Bryanita Court Tiptree which was the premises the illegal immigrants had been found to be occupying whilst working at RML. The notice had been served by the Council's Private Sector Housing Team following the discovery of five Category 1 hazards at the premises; the order prohibited its use as residential accommodation. This evidence was regarded as relevant to the case as it was a further indication of poor management controls exercised by the licence holder and manager of the premises.

The Sub-Committee questioned the Police with regard to whether an Improvement Plan could have been implemented in relation to the premises. Mr Sparrow informed the Sub-Committee that the Police had no prior knowledge of the problems or of the raid. They also asked Mr Davis, who had visited the premises, whether there were more than 3 beds at Bryanita Court. He confirmed that there were 11 but was unable to confirm whether the others were occupied.

Mr Mahfuzar Rahman, acting for his father Mr Mohibur Rahman, then addressed the Sub-Committee. He stated that he did not have a good relationship with his father. His father had left someone in charge of RML but in response to questioning he stated that he did not know who this was. He officially took over the premises on 1 May and had applied to transfer the licence. In relation to the employment of illegal workers Mr Rahman informed the Sub-Committee that he could not defend the indefensible but hoped it would exercise its discretion and only suspend the licence so that he could transfer it and run the business himself.

RESOLVED that the premises licence be revoked.

Reasons for the determination

The Sub-Committee took full account of evidence presented by Essex Police and Mr Mahfuzar Rahman who was representing the licence holder Mr Mohibur Rahman who was not present. It also had regard to its responsibilities under the Section 182 Guidance.

The Sub-Committee found that there was no evidence that right to work checks had been carried out at the premises at the time of the visit by the Immigration Service and noted that this was confirmed by Mr Mahfuzar Rahman in his evidence. Three individuals had been found to be working in the premises without the relevant permissions and this undermined the licensing objective of the prevention of crime and

disorder.

The Sub-Committee considered the point made by Mr Mahfuzur Rahman that the problems had occurred at the premises whilst his father owned the business and had delegated its running to a manager. It was noted that Mr Mahfuzur Rahman was unable to name the manager.

Evidence was presented by Mr Mahfuzur Rahman that the licence holder's business had been transferred to him and that an application had also been made for the premises licence to be transferred into his name. However, the Sub-Committee determined that these issues were not relevant to the issues being considered by the Sub-Committee because an application for a transfer of the premises licence, of itself, did not address any of the concerns raised by the police in its application relating to the current licence holder and that any application for a transfer of the licence would be subject to a separate proceedings which may or may not be successful.

Consideration was also given by the Sub-Committee to the statements made by Mr Mahfuzur Rahman at the hearing that he was not at the hearing to 'defend the indefensible'

The Sub-Committee was satisfied by the evidence presented by the police that the activities carried out by the licence holder at the premises had undermined the licencing objective for the prevention of crime and disorder

The Sub-Committee considered the request by Mr Mahfuzur Rahman on behalf of the Licence Holder for the Sub-Committee to suspend the licence to enable Mr Mahfuzur Rahman to transfer the premises licence into his name.

The Sub-Committee considered the request for it to exercise its discretion in favour of the suspending the premises licence. However, given the serious issues raised by the police and the fact that the Sub-Committee found the evidence presented by Mr Mahfuzur Rahman in relation to the separation of him from his father's business unconvincing it determined that the licensing objective of the prevention of crime and disorder would not be promoted by suspending the premises licence in order to permit the transfer of the licence into his name.