



To be submitted to the Council at its meeting on 17th December 2020

LICENSING SUB-COMMITTEE

**6th October 2020
10.00 a.m.**

Present:

Councillors Callison, Hasthorpe and Mickleburgh

Officers in attendance:

- Rob Close (Scrutiny and Committee Support Officer)
- Adrian Moody (Licensing Manager and Environmental Protection Manager)
- Eve Richardson-Smith (Deputy Monitoring Officer)
- Kate Todd (Licensing Enforcement Officer)

Others in attendance:

- Zoe Bradshaw (Immigration Officer, Home Office)
- Tuncay Kuyumcu (Premises Licence Holder)
- Andrew Petherbridge (Legal Representative, Humberside Police)
- Allison Saxby (Licensing Officer, Humberside Police)

LSC.1 APPOINTMENT OF CHAIR

Councillor Hasthorpe was appointed as chair for this meeting.

COUNCILLOR HASTHORPE IN THE CHAIR

LSC.2 DECLARATIONS OF INTEREST

There were no declarations of interest received in respect of any item on the agenda for this meeting.

LSC.3 APPLICATION TO REVIEW A PREMISES LICENCE – “CHICKEN STOP” 5 GRIMSBY ROAD, CLEETHORPES

The Chair introduced himself, the other members of the sub-committee, and the officers present.

Mrs Richardson-Smith explained the procedure for the hearing and ensured that everyone in attendance had copies of the agenda they required for the meeting.

Mr Moody summarised the application and he explained that representations were received from Humberside Police, the Home Office, and the Premises Licence Holder.

The Chair invited Mr Petherbridge to address the sub-committee.

Mr Petherbridge explained that the request to review the licence was made on the grounds that the operation of the premises, and persons linked to the premises, undermined the prevention of crime and disorder licensing objective. Humberside Police submitted that the premises and persons linked to it had been involved in criminal activity by allowing an illegal worker to be employed on the premises.

He referred to the Licensing Act 2003 Guidance, which stated that the prevention of crime included the prevention of immigration crime, which included the prevention of illegal working in licensed premises. Humberside Police considered the undermining of the licensing objectives to be so severe, that the sub-committee should consider revocation in the first instance.

He noted that Mr Kuyumcu applied for the transfer to the premises licence to himself in February 2018. In January 2020 Humberside Police were notified by the Home Office that immigration officers would be visiting the area the following day. The premises now under review was to be visited by immigration due to allegations of an illegal worker. Out of the number of premises to be visited, "Chicken Stop" was the only premises to hold a Late-Night Refreshment and Alcohol License.

Shortly after immigration officers visited the premises, Humberside Police made enquiries to confirm if anything of concern had been found. They then received an email which had been circulated to North East Lincolnshire Council, which stated that an illegal worker had been discovered. This resulted in the business being served with a referral notice of a civil penalty of £10,000, under the Prevention of Illegal Working Policy.

The immigration officers who carried out the visit submitted statements that had been circulated to the sub-committee prior to the meeting. The statements confirmed that the purpose of the visit was to investigate if the business was employing a specific illegal worker, it was also alleged that the illegal worker in question had worked at the premises for two years. On the day of the immigration officers' visit, they had been given power of entry by warrant by Hull Magistrates Court under the Immigration Act 1971. Upon entering the premises, officers identified the subject they were looking for, who appeared to be on a landline telephone taking an order while processing this through the till. Mr Kuyumcu was sat in the public area of the building, where the warrant

was explained to him by immigration officers and the subject worker was identified as someone they believed to be an illegal worker. An interview was then carried out with the business owner, who stated that the business was family run and he had been involved with it for the past four years. When asked about the subject worker, Mr Kuyumcu stated that he had worked there for the last six months with no set hours and would work only when required. The worker was employed to help with telephone orders and was paid approximately £7 per hour in cash. While Mr Kuyumcu was being questioned, the subject worker was being questioned separately. The subject worker stated that he did not in fact work at the premises, but was taking a personal call on the landline telephone and was there to cook food for his girlfriend. Upon completion of the interviews, Mr Kuyumcu was issued with the referral notice which confirmed he was being referred for the consideration for a civil penalty due to the suspicion of illegal working. Documentation was then sent to the Home Office, who, after consideration of the evidence, issued a civil penalty of £10,000 in relation to the subject worker.

He explained that the evidence before the sub-committee proved that illegal working was taking place at the premises. When the subject worker was questioned by immigration officers they denied this, but, the admission of Mr Kuyumcu, the evidence of immigration officers witnessing the work, and the decision of the Home Office to issue a civil penalty notice, was such that Humberside Police felt that the sub-committee could be satisfied that an immigration offence had been committed. In addition, he explained that because of the criminal behaviour that had taken place at the premises, the sub-committee should see it as evidence that the licensing objectives could not be promoted by these premises. He noted that Mr Kuyumcu appeared to have shown a blatant disregard for immigration law by either knowingly employing an illegal worker, or, allowing an illegal worker to be employed as a result of failing to undertake what Humberside Police felt were the most basic of employment checks. Government guidance stated that in addition to requesting sight of two original documents confirming identity, checks should also be carried out to establish if the applicant's right to work in the United Kingdom had expired. A letter from the applicant's solicitor had been circulated to the sub-committee prior to the meeting. This stated that Mr Kuyumcu did ask to see indefinite leave to remain documents, but the applicant allegedly stated these were with the Home Office. Mr Kuyumcu then assumed, that the applicant had indefinite leave to remain.

Mr Petherbridge suggested that this was not the actions of someone carrying out the required checks. Over the period of time that it was known the subject worker was working for Mr Kuyumcu, there appeared to be no follow up to confirm the status of the subject worker. Immigration intelligence suggested that the subject worker may have worked at the premises for two years, while Mr Kuyumcu stated that they worked there for six months. Mr Petherbridge stated this showed a continuous disregard for immigration law and showed that the employment only ceased once the authorities became aware. This raised concerns about

how the business was being run and undermined the licensing objectives of this premises. In a statement submitted by Immigration Officer Bradshaw which set out the questions asked at the visit, one question asked how much Mr Kuyumcu paid the subject worker. Mr Kuyumcu responded that he paid him £7 per hour, before signing his answers. However, the representation submitted by Mr Kuyumcu stated the subject worker was not an employee of the premises, but was merely helping unpaid. This showed a clear contradiction in the evidence. He again referenced the guidance issued under section 182 of the Licensing Act 2003 which stated, there was certain criminal activity that may arise in connection with licensed premises, which should be treated particularly seriously. This included employing a person who was disqualified from that work by reason of their immigration status in the UK. An impact assessment by the Home Office for the introduction of immigration checks to alcohol and late night refreshments applications, stated that illegal working often resulted in abusive or exploitive behaviour, tax evasion, undercutting legitimate businesses and adversely impacted the employment of lawful workers.

The Chair invited Ms Bradshaw to address the sub-committee. Ms Bradshaw thanked the Chair for the opportunity, but stated she didn't have anything further to add after Mr Petherbridge's comments.

The Chair invited Mr Kuyumcu, the premises licence holder to address the sub-committee.

Mr Kuyumcu confirmed he had only run the business for a few years and had only know the person in question for 6 months. He explained that the subject worker had to leave his home because of a domestic conflict and Mr Kuyumcu wanted to help him. He offered him support for his difficult residential situation, in return, the subject worker asked Mr Kuyumcu if he needed any assistance at the premises. Mr Kuyumcu refused initially. The subject member felt obliged to offer help with the premises because of the personal help offered to him. Eventually the subject worker provided a national insurance number and driving license, which Mr Kuyumcu felt was sufficient to offer him a position of employment. The work carried out by the subject worker remained minimal. Mr Kuyumcu added that he hadn't previously had any issues with running his premises.

The sub-committee withdrew to deliberate the matter. After an interval, the sub-committee returned to advise of their findings.

The Chair advised that the sub-committee carefully considered all information submitted by each party. Given the blatant disregard for immigration law, the lack of basic employment checks and the inconsistencies in the evidence submitted by Mr Kuyumcu, the sub-committee felt they had no choice other than to revoke the licensed activities of this business. In making this decision, the sub-committee took into consideration that the Home Office took the situation seriously enough to issue a £10,000 fine, which still remained unpaid, and that Mr

Kuyumcu showed no contrition or offered any assurances that there would be no further breaches of the law. The sub-committee concluded that revocation was an appropriate and proportionate response in the circumstances.

RESOLVED – That the premises licence for “Chicken Stop”, 5 Grimsby Road, Cleethorpes, be revoked after the completion of a 21 day appeal period.

There being no other business, the Chair thanked those in attendance for their contributions and concluded the meeting at 10.40 a.m.