

SOUTHEND-ON-SEA CITY COUNCIL

Meeting of Licensing Sub-Committee B

Date: Monday, 19th June, 2023

Place: Committee Room 1 - Civic Suite

Present: Councillor A Dear (Chair)
Councillors A Jones and C Mulroney

In Attendance: A Brown, T Row, M Newton and T Bahannack

Start/End Time: 10.00 am - 11.20 am

1 Apologies for Absence

There were no apologies for absence.

2 Declarations of Interest

No interests were declared at the meeting.

3 58 The Ridgeway, Westcliff-on-Sea, Essex, SS0 8NU - Application for Review of Premises Licence

The sub-committee received a report of the Executive Director (Neighbourhoods and Environment) concerning an application by the Home Office, Immigration Enforcement for the review of the existing Premises Licence at La Piazzetta, 58 The Ridgeway, Westcliff on Sea, Essex SS0 8NU.

The sub-committee listened to all the evidence and submissions and have read all the documents. It had regard to the Statutory Guidance Notes and Southend-on-Sea City Council's Statement of Licensing Policy. It considered the four licensing objectives namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

The application was presented by Mr J Davis of the Home Office Immigration Enforcement Department. The respondent, Mr Di Popolo, did not attend the hearing which proceeded in his absence. The application had been made on the grounds of crime and disorder, in particular the employment of a person who was disqualified from work by reason of their immigration status and that employees were not in receipt of the minimum wage.

The sub-committee noted that, at the time of the visit, there were other aggravating factors such as conditions attached to the licence were not being adhered to, in particular condition 5, regarding the training of all staff at the premises on the relevant aspects of the Licensing Act 2003. It had also been noted that the fire exits at the premises were either blocked or had been forced open. This had been reported to the Fire Service.

On the basis of the evidence presented to it, the sub-committee concluded that it was evident the business owner/manager was inextricably linked to the

employment of staff and running of the premises and had demonstrated an awareness and understanding of the processes and responsibilities to conduct the appropriate checks but had deliberately overlooked the rules and laws in place to prevent crime and disorder.

It is not, however, the role of the sub-committee to determine guilt of an individual as this is a matter for the court. It is an offence to work when a person is disqualified to do so and such an offence can only be committed with the co-operation of a premises licence holder or its agents. It is also an offence to employ an illegal worker where there is reason to believe this is the case. Whether by negligence or wilful blindness several illegal workers were engaged in activity on the premises.

The case of East Lindsey District Council v Hanif determined that in such circumstances, even without a prosecution, the crime prevention objective is engaged. The statutory guidance issued under the Licensing Act 2003 provides that certain criminal activity (in particular employing illegal workers) should be treated particularly seriously and it is envisaged that the review procedures be used effectively to deter such activities and crime, as is the case with this application.

The sub-committee regarded this situation as serious and took the view that the licence holder had failed in his duty to comply with the conditions on the premises licence and the licensing legislation. Due to the gravity of the situation and taking into account the promotion of the crime prevention objective, including acting as a deterrent, in accordance with the Licensing Act 2003, the sub-committee believes the imposition of further or amended conditions or a suspension of the licence would be ineffective in the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community. It therefore:

Resolved:-

That the premises licence in respect of La Piazzetta, 58 The Ridgeway, Westcliff on Sea be revoked.

Chair: _____