1. Election of Chair

Cllr Dalgarno was elected Chair for this Licensing Sub-Committee. The Chair opened the meeting with introductions and explained the procedure to be followed for this Sub-Committee hearing.

2. Members’ Interests

There were no declarations of interest.

3. Procedure for the Hearing of Applications under The Licensing Act 2003

The procedure for the hearing of applications under the Licensing Act 2003 was noted.

4. The Four Licensing Objectives

The four licensing objectives were noted as:

- Prevention of Crime and Disorder;
• Public Safety;
• Prevention of Public Nuisance; and
• Protection of Children from harm.

5. Review of the Premises Licence for Cafe Masala, 63 Bower Lane, Eaton Bray, Dunstable LU6 1RB

The Sub-Committee considered the report of the Head of Public Protection which set out to review the premises licence in light of an enforcement visit by officers of the East of England Immigration Compliance and Enforcement Team on 5 April 2019.

The Licensing Manager, Public Protection drew Members’ attention to the background for the report and to the options before them.

Points and comments included:

• The licensing objective in question was Prevention of Crime and Disorder.
• Copies of the nine completed ‘Right to Work’ checks were made available to the Sub-Committee on the day for information.
• 29 submissions had been received from local residents expressing their support for the premises and the Premises Licence Holder.
• No representations had been received from Bedfordshire Police or Trading Standards and no comments had been received from Beds Fire & Rescue Service, the Pollution Team, the Planning Authority, Health & Safety, Public Health or the Child Protection Team.
• It was noted that if the licence were to be revoked, the restaurant could continue to operate as a restaurant but could only serve soft drinks within the permitted hours.

There were no questions or points of clarification sought.

The Immigration Officer gave her statement to the Sub-Committee.

Points and comments included:

• The enforcement visit took place on 5 April 2019 and of the 13 staff encountered, 4 were found to have been working illegally. Penalties were issued for 3 of the 4 persons at the premises.
• The visit had been arranged due to intelligence received that persons were living above the premises in unsafe accommodation.
• It was noted that this was the second occasion that the Premises Licence Holder had managed a premises where it was found that staff were working illegally. This first visit took place in November 2018 at a premises based in Stevenage.
• Conversations took place with the Premises Licence Holder and Officers at the April 2019 visit and these were recorded in full but were not included within the agenda pack other than the summary given in the section for Grounds for Review (page 37).
- It was noted that a substantial amount of money had been found at the premises on 5 April and on questioning, the Premises Licence Holder had stated that it was to pay staff who did not have bank accounts.
- The Immigration Officer is aware that the Premises Licence Holder’s son was unwell at the time.

In response to questions, the following comments were received:

- It was confirmed that a civil penalty had been issued for the premises in Stevenage.
- The issue of multiple occupancy was not one within the remit of the Licensing Team and would therefore need to be dealt with by the Council’s Private Sector Housing Team.
- It was noted that Stevenage Borough Council had been sent a copy of the report with regards to the visit to the Stevenage premises but to date no review application has been received for action. It was not possible for the Immigration Officer to advise why this was the case.
- It was also noted by the Agent that the Premises Licence Holder denied stating that the money found at the premises on 5 April was for staff but that this detail has been raised with the Home Office direct and will be dealt with outside of this hearing.

The Agent, speaking on behalf of the Premises Licence Holder, gave their statement.

Points and comments included:

- It was stated that the Premises Licence Holder deeply regretted being in this situation and gave his apologies to all present.
- It was felt that the review application for the visit on the 5 April 2019 was unclear and required more clarification as to the situations and conversations mentioned. For example, the warrant was not mentioned within it and it was unclear as to details of the 13 staff questioned etc.
- The Premises Licence Holder formally objected to the Notice.
- The Agent stated that the Premises Licence Holder’s only mistake was that he was unable to demonstrate on the day that all the paperwork was in order and that checks had been carried out.
- The Premises Licence Holder takes his responsibility very seriously but due to his son’s ill health, had been spending less time at the premises and as a result had delegated the employment of staff to his manager. He believed that his manager had been carrying out the checks correctly.
- It was noted that the Premises Licence Holder is fully co-operating with the Home Office and that they have access to all papers and to the premises.
- In going forward the Agent proposed 4 conditions be appended to the Licence:

1. That the Premises Licence Holder operate a full HR Management System where all relevant documents, proving entitlement to work, are stored for each member;
2. All copies of relevant documents for staff will be retained for a period of 24 months post termination of employment and will be made available to Police, Immigration or Licensing Officers on request;
3. The Premises Licence Holder will work with an Immigration Compliance Business to carry out checks via the home office website and verify identification documents such as Right to Work documents to ensure that all new members of staff can be legally employed; and
4. No new member of staff will be able to work at the premises unless they have provided satisfactory proof of identification and Right to Work documents, which includes persons employed on a trial basis for any period of time.

In response to questions, the following comments were received:

- Concern was raised regarding the track record and the Agent advised that the case for the Stevenage premises was ongoing but had not resulted in a review for that premises licence.
- It was asked if the 4 proposed conditions could be appended to the licence and this would be checked by the Licensing Officer.
- It was raised by the Immigration Officer that the proposed conditions should already be in place, but it was clarified by the Sub-Committee that currently they would be considered as guidance and if added as conditions to the licence, they would become enforceable.
- The Immigration Officer also noted that the website guidance is clear as to document accessibility.
- It was envisaged that both paper and electronic copies of the documents would be kept.
- It was confirmed that the employment of an advisor for immigration purposes would ensure that all checks were carried out and visas held in compliance with Home Office guidance.
- The Premises Licence Holder had previously completed training in 2005.

The Chair read out a statement from the Ward Member, Cllr Spicer, who had been unable to attend on the day. Cllr Spicer wished to note that whilst he did not condone the actions of the owner, he felt that the premises was an important asset to the community of Eaton Bray and the surrounding villages.

There were no questions or points of clarification raised.

The Chair invited closing submissions from all present.

- The Licensing Officer had nothing further to add.
- The Immigration Officers had nothing further to add.
- The Agent for the Premises Licence Holder stated that the Premises Licence Holder would be happy to sit the relevant courses again with a view to adding this as a 5th condition.
The hearing adjourned at 11.21am to 12.00pm to allow the Sub-Committee, with support from the Legal representative, to make their decision in private.

**Decision**

The Sub-Committee having heard from the East of England Immigration, Compliance and Enforcement Team representatives and the Agent on behalf of the Premises Licence Holder had unanimously found that there had been breaches of the Prevention of Crime and Disorder Objective in that people with no right to work in the UK had been employed at the Premises.

Following consideration of the information before it, the Sub-Committee unanimously decided that the Premises Licence should be varied by the addition of the following conditions:-

1. The Premises Licence Holder will, within the next 28 days operate a full human resources management system where all relevant documents to prove entitlement to work are stored for each member of staff.

2. All copies of relevant documents for members of staff will be retained for a period of 6 years post termination of employment and will be made available to police, immigration or licensing officers upon request.

3. The Premises Licence Holder will work with Immigration Compliance Business to carry out checks on the Home Office Website and verify identified documents such as right to work and ensure that all new members of staff can be legally employed.

4. No new member of staff will be able to work at the Premises unless they have provided satisfactory proof of identification and the right to work in the UK. That includes those employed on a trial basis for any period of time.

5. Both Premises Licence Holders are to undertake appropriate training for personal licence holders within 3 months of the date of this decision.

In coming to its decision, the Sub-Committee had taken into account:

- The Licensing Act;
- The Secretary of State’s Guidance issued under section 182 of the Licensing Act 2003;
- Central Bedfordshire Council’s Licensing Policy; and
- The merits of the application and the representations (including supporting information) presented by all parties.

The Chair of the Sub-Committee explained to the Applicant that the effect of failure to comply with any of the conditions attached to the licence or certificate would be a criminal offence, which upon conviction, would result in an unlimited fine or up to six months imprisonment or both.
The Chair informed all that the Decision Notice would be issued within 5 working days and that they had the right of appeal to the Magistrates Court within 21 days of the date on which they are notified of the decision.

The meeting concluded at 12.15 pm.