

DECISION NOTICE

Northern Area Licensing Sub Committee

Date of Hearing/Decision - 15 January 2020

Application for a Review of a Premises Licence in respect of the Tale of Spice, Malmesbury Road, Chippenham made by the Home Office (Immigration Enforcement)

Decision

The decision of the Northern Area Licensing Sub Committee in respect of the Tale of Spice, Malmesbury Road, Chippenham, is as follows:

1. To remove the Designated Premises Supervisor – Mr MD Hafizur Rahaman.
2. To add a condition to the Premises Licence that all relevant records must be maintained and retained accordingly of the right to work of any person working at the premises. Such records to be made available for inspection on demand by any Responsibility Authority.
3. In order for the above condition to be actioned and for a new Designated Premises Supervisor to be put in place at the Premises, that the Premises Licence LN/000003324 be suspended for a for a period of 2 months until 16 March 2020.

Reasons for the Decision

The Sub Committee was of the view that the evidence presented by the Home Office (Immigration Enforcement) and the Licensing Authority demonstrated that the Premises Licence Holder/Designated Premises Supervisor had failed to effectively manage the premises so far as the employment of staff were concerned and had failed to actively promote the licensing objective of the prevention of crime and disorder.

The Premises Licence Holder had been found to have employed or retained staff at the business who did not have the relevant permits to work in the United Kingdom (UK). The Premises Licence Holder had not kept sufficient records to prove to the Responsible Authorities that any staff working at the Premises were legally able to work and had not updated himself, nor undertaken appropriate training on the employer's legal requirements needed for the employment of staff in particular to take steps to manage the business to ensure staff who were employed at the business had the relevant permits to work in the UK.

The Sub Committee determined that the Premises Licence Holder had failed to comply with his obligations in respect of the following licensing objective: -

- The Prevention of Crime and Disorder.

In reaching its decision, the Sub Committee took account of all the written representations contained within the Agenda and the Agenda Supplement, in addition to the oral arguments presented at the hearing and made on behalf of the Review Applicant (Home Office - Immigration Enforcement) , the Public Protection Officer (Licensing), the Premises Licence Holder, Mr MD Hafizur Rahaman and the representative for the Premises Licence Holder, Mr Frank Fender.

The Sub Committee also considered and took account of the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 52); the four licensing objectives, the guidance issued under Section 182 of the Act (in particular paragraphs 11.27 and 11.28) and the Licensing Policy of Wiltshire Council.

Conclusions

The Sub Committee acknowledged the Premises Licence Holder's apology and the efforts made by the Premises Licence Holder since the visit on 20 September 2019 to ensure where applicable that staff held the appropriate permit to work in the UK. The Sub Committee also noted that the Premises Licence Holder had held the Premises Licence since October 2016 and was not the Premises Licence Holder when the two visits from the Immigration Service took place in 2015.

However, the Sub Committee were mindful that the s182 guidance (paragraphs 11.27 and 11.28) considers the employment of persons not permitted to work in the UK to be criminal activity which should be treated particularly seriously, and revocation of the Licence should be seriously considered even in the first instance.

In view of the evidence heard, the Sub Committee determined that they did not have confidence in the ability of the Premises Licence Holder as DPS to uphold the licensing objective to prevent crime and disorder in future. In particular the Sub Committee were concerned that the Premises Licence Holder appeared to have not have made himself aware of all his legal responsibilities concerning the employment of illegal workers.

The Sub Committee concluded that in this case the removal of the Designated Premises Supervisor, the imposition of an additional condition on the Premises Licence and a suspension of the Premises Licence for a period of 2 months was both proportionate and necessary to meet the licensing objective of the prevention of crime and disorder.

Right to Appeal and Effective Date of Decision

The Premises Licence Holder, the party that applied for the review and any Responsible Authority or Interested Parties who have made representations may appeal the decision made by the Licensing Sub Committee to the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the notification of the decision. The

decision of the Licensing Sub Committee does not take effect until the end of the period for appealing against that decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee does not take effect until any appeal is heard and finally determined.