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## LICENSING SUB-COMMITTEE

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**MINUTES** of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT on Monday, 25 February 2019 from 10.06am - 11.00am.

**PRESENT:** Councillors Tina Booth (Chairman), Paul Fleming and Tony Winckless.

**OFFICERS PRESENT:** Mohammad Bauluck, Robin Harris and Chris Hills and Kellie Mackenzie.

**ALSO IN ATTENDANCE:** PC Dan Hunt and PC Chris Hill (Kent Police).

### 514 EMERGENCY EVACUATION PROCEDURE

The Chairman ensured that those present were aware of the emergency evacuation procedure.

### 515 NOTIFICATION OF CHAIRMAN AND OUTLINE OF PROCEDURE

The Chairman opened the meeting and asked those present to introduce themselves.

### 516 DECLARATIONS OF INTEREST

No interests were declared.

### 517 EXCLUSION OF PRESS AND PUBLIC

**Resolved:**

***That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7 of Schedule 12A of the Act:***

***7. Information relating to any action taken in connection with the prevention, investigation or prosecution of crime.***

### 518 REVIEW OF A PREMISES LICENCE - SPICE LOUNGE, 76 PRESTON STREET, FAVERSHAM

The Licensing Officer introduced the report which was for a review of the premises licence at the Spice Lounge, 76 Preston Street, Faversham.

The Licensing Officer stated that the grounds for the review related to the licensing objectives of the prevention of crime and disorder and protection and public safety and also to the execution of two recent warrants at the premises conducted by immigration officers.

The Licensing Officer advised Members that there had been some issues around the displaying of the required notice for the statutory period of 28 days. She explained that whilst the notice had been posted on the Council website and via a blue notice posted at the Council offices, unfortunately the notice had not been correctly displayed at the premises for the full statutory period.

The Licensing Officer explained that whilst the notice display requirements had quite clearly not been complied with, case law had created the concept of 'substantial compliance' which meant that a minor effect in the process did not necessarily invalidate the entire procedure. She stated that it was for Members to determine whether the hearing could continue.

The Sub-Committee agreed that the hearing should continue.

The Chairman noted that the Respondent had chosen not to attend the hearing and asked Members whether they were happy that there was sufficient evidence of the respondent's position to continue with the hearing.

The Sub-Committee voted unanimously that the hearing should continue.

The Licensing Officer referred to the review application which was set-out on page 7 of the agenda pack. She explained that this was as a result of warrants executed at the premises, one on 10 August 2018 where four persons were found to be working illegally at the premises and a subsequent warrant executed on 8 November 2018 which found two persons working illegally. She stated that under provisions contained within the Immigration, Asylum and Nationality Act 2006 and the Immigration Act 1971, an employer must check the immigration status of persons that they employed.

The Licensing Officer reported that Mohammad Bauluck (Licensing Officer, Swale Borough Council) had accompanied immigration officers on both visits and conducted a full licensing compliance inspection, where it was found that there were breaches of the conditions attached to the premises licence. Mr Bauluck had supplied a witness statement which was shown on page 23 of the agenda and a letter and email exchange between him and the Respondent. The Licensing Officer reported that all breaches of the conditions had now been remedied.

The Licensing Officer advised that Kent Police were seeking revocation of the licence.

The Chairman invited Members to ask questions of the Licensing Officer. There were no questions.

PC Dan Hunt (Kent Police) presented his case. He explained in detail their grounds for a review which were set-out on page 9 of the agenda and referred to the two warrants issued by the Home Office Immigration Officers at the premises. PC Hunt advised that Home Office Immigration officers had provided evidence of other occasions when persons had been working illegally at the premises. Once on 2 March 2008 and also on 20 July 2012.

In response to a question from a Member, PC Hunt confirmed that he had only witnessed the sleeping accommodation on the first floor of the premises, which he stated had 4 to 5 beds, little furniture and not very nice, there was also a communal bathroom.

In response to queries from the Senior Lawyer – Contentious, PC Hunt confirmed that he had only attended the warrant on 8 November 2018. PC Hunt confirmed that whilst he had not seen the alleged illegal persons working, he had observed an individual (identified in the report as person 1) dressed like a waiter in black when he visited the premises in January 2019.

Mr Bauluck drew attention to his statement on page 23 of the agenda. Mr Bauluck reported that he had accompanied the Enforcement Team of the Home Office on a joint enforcement operation to check on illegal employees on 10 August 2018. Whilst he was at the premises he conducted a full licensing compliance check, and a full list of outstanding licensing issues was compiled. A letter was sent to the Respondent as Premises Licence Holder/Designated Premises Supervisor, on 15 October 2018 to attend a meeting to discuss the outstanding issues, however the Respondent did not attend. Following a further visit to the premises on 8 November 2018, Mr Bauluck observed that none of the outstanding issues had been dealt with. The Respondent contacted the licensing team on 24 November 2018 to confirm that all of the outstanding issues had now been complied with.

In response to questions from the Senior Lawyer – Contentious about what Mr Bauluck had witnessed during the visit to the premises with Immigration Officers, Mr Bauluck stated that on the 10 August 2018 visit he had witnessed 'Person 1' serving at a table and then moving away and subtly removing their tie, and on the 8 November 2018 visit, he had again witnessed 'Person 1' removing their tie.

In summing-up PC Hunt stated that the reasons for the review were clear and that on four separate occasions illegal employees were on the premises. The Respondent had been the Designated Premises Supervisor and Premises Licence Holder at Spice Lounge each time that illegal persons were working on the premises. PC Hunt stated that the employing of illegal workers raised concerns with regard to the licensing objective of public safety, and competency and training levels with regards to food preparation could have a direct effect on those dining at the premises.

Members of the Sub-Committee adjourned to make their decision at 10.45am. Members of the Sub-Committee, the Senior Lawyer – Contentious and the Democratic Services officer returned at 10.58am when the meeting was re-convened.

The Chairman announced that the Sub-Committee had agreed to revoke the licence, and the decision notice would be published within five working days of the meeting.

***Resolved: The Sub-Committee agreed to revoke the licence, the Notice of Determination sets out the full decision and reasons and will be published within five working days of the meeting.***

Chairman

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All Minutes are draft until agreed at the next meeting of the Committee/Panel