



LICENSING AUTHORITY: SWALE BOROUGH COUNCIL

**LICENSING ACT 2003
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

NOTICE OF DETERMINATION

Application Ref No: FAV/SWALE/190/0460

Applicant: PC 11044 Hunt – Kent Police

Regarding **REVIEW OF THE PREMISES LICENCE – Spice Lounge,
76 Preston Street, Faversham, Kent, ME13 8NU**

Date(s) of hearing: 25 February 2019

Date of determination: 25 February 2019

Committee Members: Councillor Tina Booth (Chairman)
Councillor Paul Fleming
Councillor Tony Winckless

Legal Advisor in attendance at hearing(s): Mr R Harris

Licensing Officer in attendance at hearing(s): Chris Hills

This was an application for:

☐ Variation ☐ Grant
☐ Provisional Statement ☒ Review ☐ Other

for a

☒ Premises Licence ☐ Club Premises Certificate ☐ Personal Licence
☐ Temporary Event Notice

A: Representations, evidence and submissions:

The Committee considered the representations, evidence and submissions of the following parties:

Applicant

- Name: Kent Police
PC Hunt

Responsible Authorities

a) Licensing Authority

b) Police

Other Persons

Witnesses and legal representatives in support of interested parties

- N/A

Representations considered in the absence of a party to the hearing:

- N/A

B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Swale Borough Council

The Committee has taken into account the following provisions of the Licensing Act 2003 and the Regulations thereto:

Section 13 which relates to responsible authorities;
Section 51 which relates to the review of a premises licence;

The Committee has taken into account the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives
Chapter 8 & 9 which relates to premises licences & determinations
Chapter 10 which relates to conditions attached to licences;

The Committee has taken into account the following provisions of its Statement of Licensing Policy:

Chapter 19 which relates to the 4 licensing objectives;
Chapter 20 which relates to the prevention of crime and disorder;

The Committee has decided to depart from the guidance under section 182 of the Act and or the statement of licensing policy for the following reasons:

Paragraphs and reasons (state in full):

N/A

C: Determination:

The Committee has decided to:

- grant the application for revocation.

Reasons for determination:

■ **Prevention of Crime and Disorder**

Reasons (state in full):

The Sub-Committee had regard to all the evidence in the report pack, including what was said by the individuals on the premises. The Sub-Committee heard from Kent Police that on 4 separate visits to the premises there was an individual (identified in the report as person 1) working at the premises who was not entitled to work due to their immigration status. On all of the occasions that the person was challenged they claimed not to be working, but merely a visitor. However, the Police evidence was that the individual was dressed as a waiter, customers had confirmed that the person had been working as a waiter and the Council Licensing Officer observed the individual serving a table when the Police and Immigration Enforcement Officers first arrived at the premises. On another occasion, person 1 was identified standing behind the bar. Having considered the evidence the Sub-Committee were satisfied that person 1 was working at the premises in breach of their immigration status.

The Sub-Committee further heard that when a Warrant was executed to search the premises on 10th August 2018 there were three other individuals present at the premises who were not entitled to be working in the UK on account of their immigration status. When questioned all three claimed not to be 'working' but did

admit to 'helping out.' Two of the three claimed to be helping out 'in exchange for food.' The DPS attempted to obstruct an Immigration Enforcement Officer from pursuing one of the individuals. In interview, the DPS claimed that all the individuals were 'merely visiting.'

The Sub-Committee were not satisfied that any of the individuals were 'merely visiting.' On their own evidence, it appeared that they were working without being paid a proper wage, a serious matter in its own right.

The Sub-Committee further heard that when a Warrant was executed to search the premises on 8th November 2018 a further person was at the premises who was not entitled to work in the UK on account of their immigration status who admitted to working as a tandoori chef and having an agreement to be paid £40 - £50 per week.

The Sub-Committee were extremely concerned that as well as being illegal work on account of the individuals immigration status, this was also pay so low as to be in the realms of modern slavery.

The Sub-Committee were also advised that persons had been found working at the premises illegally on two occasions in the more distant past.

■ **Public Safety**

Reasons (state in full):

The Sub-Committee heard from Kent Police that persons working illegally would be unlikely to hold relevant food hygiene certificates or have UK standard food safety training and therefore their presence at the restaurant placed the public at risk.

Further, the Police reported that persons appeared to be accommodated in unsuitable circumstances above the restaurant, with as many as five beds in a single room. This was likely to place them at risk.

■ **Prevention of nuisance**

Reasons (state in full):

N/A

■ **Protection of children from harm**

Reasons (state in full):

N/A

■ **Conclusion**

Reasons (state in full):

The Sub-Committee found that the breaches noted under the Crime and Disorder Objective were so serious that revocation of the Premises Licence was a necessary, appropriate and proportionate step.

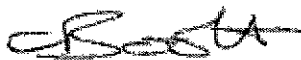
The Premises Licence Holder/DPS had displayed a flagrant disregard for the employment rules around immigration status over a sustained period of time. This placed the customers of the premises at risk and created circumstances where the staff could be deprived of their proper legal rights.

Parties aggrieved by a decision of the Licensing Sub-Committee have 21 days to appeal the decision by way of complaints to the Magistrates Court.

PRINT NAME (CHAIRMAN):

CLARE TINA BOOTH

Signed



A copy of the original document is held on file

Date:

27 / 5 / 19

