

MINUTES OF A SPECIAL MEETING OF THE LICENSING SUB-COMMITTEE HELD IN THE COUNCIL CHAMBER, CIVIC OFFICES, ANGEL STREET, BRIDGEND ON TUESDAY, 8 APRIL 2014 AT 10.00AM

Present:

Councillor R Williams - Chairperson

Councillors

B Jones
G Thomas

Officers:-

Y Witchell - Licensing and Registration Officer
R Morris - Senior Licensing Assistant
S Jones - Licensing Assistant
R Young - Legal Officer
A Rees - Senior Democratic Services Officer - Committees

Representing South Wales Police

Sgt D Williams
P.C. K Ellis
K Gould - Operational Police Lawyer

Premises Licence Holder

Mr D Fisher of P7168 Limited
Ms W Wang of P7168 Limited

357 APOLOGIES FOR ABSENCE

None.

358 DECLARATIONS OF INTEREST

None.

359 LICENSING ACT 2003: SECTION 51 APPLICATION FOR REVIEW OF PREMISES LICENCE GOLDEN BOWL CHINESE TAKEAWAY, 80 NOLTON STREET, BRIDGEND

The Licensing and Registration Officer reported on an application submitted by the Chief Officer of Police for a review of the premises licence of the Golden Bowl Chinese Takeaway, 80 Nolton Street, Bridgend. She stated that the Premises Licence Holder is P7168 Limited and the premises authorises the provision of late night refreshment only between 2300 and 0000 hours Monday to Sunday. The application had been advertised in accordance with the regulations; there had been no representations received or additional documents for the Sub-Committee's consideration.

Mr Fisher informed the Sub-Committee that P7168 Limited's interest in the premises had now ended and the premises licence was in the process of being transferred as the problems caused at the premises was more that it was worth and there was no requirement for the hearing to proceed. He stated that an application for the transfer of the licence had not yet been made.

Ms Wang informed the Sub-Committee that the transfer of the premises licence would be made today. She stated that P7168 Limited is a company which specialises in developing take away establishments and gave advice to Premises Licence Holders to increase sales. Ms Wang also informed the Sub-Committee that P7168 Limited had been asked by the previous Premises Licence Holder Mr Giu Liu to help improve the level of service provided at the Golden Bowl.

The Licensing and Registration Officer informed the Sub-Committee that the hearing would need to proceed as the application made by South Wales Police was for the revocation of the licence. Mr Fisher informed the Sub-Committee that the premises licence was being relinquished and that P7168 Limited would have no interest in the premises. The Licensing and Registration Officer informed the Sub-Committee that the application for the review of the premises licence had been made by South Wales Police on 7 February 2014 and the time period for representations had elapsed. Ms Wang informed the Sub-Committee that the new owner had purchased the premises on 27 February 2014 and intended to apply for a premises licence. She stated that the previous Premises Licence Holders Mr & Mrs Liu had created a bad impression in their running of the premises and had since sold all their assets and re-locating away from Bridgend.

The Licensing and Registration Officer informed the Sub-Committee that there had been no application for the transfer of the premises licence and the hearing must proceed. The Legal Officer questioned the Premises Licence Holders as to whether they had an objection to the application for the review of the premises licence proceeding. The Premises Licence Holders informed the Sub-Committee that they would listen to what is said, but if there were legal arguments put forward would require an adjournment. PC Ellis informed the Sub-Committee that application for the review of the premises licence would follow the same procedure as that followed in the review of the premises licence of the Noble House take away, Pencoed.

The Licensing and Registration Officer invited South Wales Police to present their application for the review of the premises licence.

PC Ellis informed the Sub-Committee that if P7168 Limited was no longer involved as Premises Licence Holder it could surrender the licence and South Wales Police could either object or consent to the application.

Ms Wang informed the Sub-Committee that P7168 Limited wanted to confront the previous problems associated at the premises which was their reason for attending the hearing in order to clarify their position and proposed to submit an application for the transfer of the licence. The Sub-Committee considered that there had been no evidence of an application for the transfer of the premises licence.

The Sub-Committee adjourned at 10.17am and reconvened at 10.21am.

The Chairperson informed the Sub-Committee that P7168 Limited could surrender the licence in writing. Ms Wang asked what would be the effect on the running of the premises should the licence be surrendered. The Chairperson informed the Sub-Committee that in the event of the licence being surrendered the premises would have to close at 2300 hours. Mr Fisher questioned what would be the position for the new Premises Licence Holder. The Operational Police Lawyer informed the Sub-Committee that Section of the Licencing Act allowed for the reinstatement of a premises licence after revocation.

The Operational Police Lawyer requested that the hearing continue. Mr Fisher informed the Sub-Committee that P7168 Limited would surrender the licence.

The Sub-Committee adjourned at 10.24am and reconvened at 10.41am.

PC Ellis commenced his submission by emphasising that was important to note that in relation to reviews Sub-committees must not only have regard to Section 11 of the Home Office guidance issued under the Licensing Act 2003 but also Section 12 of the Council's "Statement of Licensing Policy" which dictates that reviews represent a key protection for the community if problems arise at licensed venues. He stated that information highlighted within the review demonstrates that staff are not promoting public safety and the prevention of crime and disorder. He informed the Sub-Committee that licensing authorities should look to the police as the main source of advice on crime and disorder and should also seek to involve the local Community Safety Partnership. He also stated that the Licensing Department of South Wales Police is an integral part of the Community Safety Partnership and this was not a statement which had emanated from the Chief Officer of Police but was highlighted at Section 2 of the guidance which relates to the licensing objectives and in particular Sub-section 2.1 Crime and Disorder.

PC Ellis informed the Sub-Committee that a number of sub-sections within the review guidance refer to the review being of the premises licence, there was no reference made in this section to the licence holder. He stated that South Wales Police was reviewing the premises itself as it was being regularly used for the trafficking of Chinese nationals into the UK which would strongly suggest organised criminality. He submitted that The Golden Bowl is effectively a conduit facilitating crime and that management are at best condoning the trafficking of illegal migrants or at worst are facilitating that offence either covertly or overtly or are employed by persons who are regularly committing that offence. What was of additional concern is that the antecedent history and criminal background of these workers is unknown which also fails to promote the objectives. He informed the Sub-Committee that there is a vast amount of documentation and help available to employers and there was no reason for any employer to employ migrants who are not permitted to work. He stated that it was quite clear that there had been a deliberate and sustained attempt to deceive the authorities by persistently employing illegal Chinese migrants. Enforcement by the UK Border Agency, which is all intelligence led, had led to numerous arrests. He informed the Sub-Committee that officers only swear out arrest warrants under the Immigration Act 1971 before a Justice of the Peace if reliable information is received that immigration offences are being committed. Additionally other forms of criminality have taken place as offences have also been committed under the Licensing Act, the Misuse of Drugs Act and the Theft Act.

PC Ellis informed the Sub-Committee that The Golden Bowl has a partner premises called the Noble House which was also a licensed Chinese takeaway situated in Pencoed and both premises are intrinsically linked. He stated that matters pertaining to the Noble House are included as they are relevant to the promotion of the licensing objectives. The licence holder of the Noble House was Guoying Liu who is a naturalised British citizen and has given his address on the licence as the Golden Bowl. Guoying Liu is the ex-husband of Siu Liu, and until recently, and for reasons which will be explained, she was licence holder of the Golden Bowl. Individuals and companies involved with both takeaways are so closely associated that South Wales Police do not feel that the current or previous licence holders are fit and proper persons to hold any licence. Other distinct correlations include the companies which are purportedly responsible for both takeaways, which includes P 7168 Limited which not only represented the previous licence holder of the Noble House but is itself the new holder of the licence of the Golden Bowl. Various subsidiary companies which have been fined by the Home Office after arrest warrants were executed by the UK Border Agency. ITCA (GB) Limited is the holding company for all these subsidiary companies, the same directors and secretaries of those companies. Guoying Liu has given one of 3 addresses as the Golden Bowl. Illegal migrant workers have been arrested at both takeaways. Illegal migrant workers who have given their address as

either the Golden Bowl or the Noble House or Guoying Liu's other 2 addresses. The takeaways are so closely linked that in 2005 the same person submitted both applications for the grant of each licence. The subsequent licences issued were allocated references BCBCLP494 for the Noble House and BCBCLP495 for the Golden Bowl. Despite both takeaways being subject of enforcement by South Wales Police and the UK Border Agency serious offending has continued.

PC Ellis informed the Sub-Committee that on 21st January 2014 a letter was sent to South Wales Police by Guoying Liu via F (30) Limited, another company under the umbrella of ITCA (GB) Limited where not one ounce of contrition was demonstrated. He stated that Guoying Liu had quite clearly stated, "I am not the employer of staff"..... "I did not check the identity documents of the staff because it was not my direct responsibility." Guoying Liu also stated that even though they were illegal immigrants they still had a right to privacy". PC Ellis stated that this was incorrect as they have to be thoroughly vetted. PC Ellis also stated that despite Guoying Liu being the licence holder and ultimately responsible for what goes on in his premises, he had completely absolved himself of any responsibility or wrongdoing choosing to blame a company called A Pool Limited. The representations of South Wales Police in respect of the application to transfer the licence from Siu Liu to P 7168 Limited were attached to this letter. However; this document should not be in the possession of Guoying Liu as it is addressed to P 7168 Limited but again demonstrates the link between both takeaways.

PC Ellis outlined the overall picture of enforcement at the Noble House is that in June, October and November 2013 the UK Border Agency executed 3 arrest warrants and found 10 illegal migrants working, 7 had illegally entered the UK, 1 had overstayed the terms of her visa and 2 were failed asylum seekers and 8 were arrested. If the UK Border was considering imposing a financial penalty on an employer for engaging in the employment of an illegal migrant worker then the procedure on evidencing the offence is that a Notice of Potential Liability (a NOPL) is served on the employer. PC Ellis stated that the evidence collated is subsequently examined by the Home Office Civil Penalty Compliance Team (CPCT) which determines whether the employer should be subject of a penalty Notice under Section 15 of the 2006 Act. A Notice of Liability (NOL) ordering payment of the penalty up to a maximum of £10,000 per worker is then served on behalf of the Secretary of State. As a consequence of the visit on 25 June 2013 the Home Office issued a penalty 21069 to A Pool Limited and on 4 September 2013 were fined £15,000 in respect of 3 migrants. As a result of a visit on 9 October 2013 a penalty of £17,500 was served on A Pool Limited for employing 2 illegal migrants.

PC Ellis informed the Sub-Committee that A Pool Limited is another of those 1,126 companies within the structure of a holding company called ITCA (GB) Limited and was incorporated on 5 April 2013. Winston Churchill House is the registered address of ITCA (GB) Limited and A Pool Limited however; it is merely a "post box" address in Birmingham. South Wales Police has recently been informed by the Home Office who informed that "we have encountered Winston Churchill House before as it appears to be a 'post box' for businesses, often Chinese restaurants that go into liquidation soon after receiving a penalty notice". PC Ellis informed the Sub-Committee that Yun Hui Zhou was appointed company director of A Pool Limited on 5 April 2013 and is a Chinese national residing in China. Simon Yuen Choi Poon was appointed company director on 5 April 2013 and resigned the same day. ITCA (GB) Limited is company secretary of A Pool Limited and was appointed on 5 April 2013. Simon Yuen Choi Poon is also the sole company director ITCA (GB) Limited. The fines issued to A Pool Limited total £32,500 but as with the Golden Bowl, the company has not paid a penny of these fines and the cases have been referred to a third party debt solicitors for recovery of the amount.

The Operational Police Lawyer questioned whether ITCA (GB) Limited is a holding company for companies which go into liquidation. PC Ellis confirmed that this was the case.

PC Ellis informed the Sub-Committee that on 13 November 2013 the UK Border Agency again executed a warrant and again 2 illegal immigrants were arrested. The Border Agency were accompanied by South Wales Police Licensing Officers and licensing offences were also detected i.e. failing to keep the licence at the premises; failing to produce the licence for inspection and failing to display a summary of the licence at the premises. He stated that the three offences are contrary to Section 57 and punishable by a maximum fine of £500. Staff had not only been involved in the regular employment of illegal migrants but when immigration offences are detected the same contempt was held by various companies for the fines issued.

PC Ellis informed the Sub-Committee that on 17 December 2013 as a direct consequence of the serious immigration offences being regularly committed at the Noble House takeaway and following strictly Home Office guidelines for triggering the review process South Wales Police made application under Section 51 of the Act to review the Premises Licence. On receipt of the review application P 7168 Limited which was by now the new licensee of the Golden Bowl, made application to transfer the licence on behalf of Rui Ya Wang. The fee was paid by cheque for and on behalf of F (30) Limited which is yet another company under the umbrella of ITCA (GB) Limited. PC Ellis stated that not once since the licence was granted in 2005 had there been an application to transfer the licence to other persons. The transfer application was served after the review process had commenced and South Wales Police are of the opinion that like the Golden Bowl the application was made not to promote the licensing objectives but a cynically motivated attempt to circumvent the review process.

PC Ellis informed the Sub-Committee that there is a requirement in an application to transfer licences to return the licence so that a new licence may be issued. However; P 7168 Limited indicated that the premises licence was lost when the licence holder Guoying Liu moved house. He stated that the licence must be kept at the premises and not at the Premises Licence Holder's home as this was an important document yet neither South Wales Police nor the Council had been informed of its loss. South Wales Police believe that as offences in relation to the licence itself were highlighted within the review i.e. not displaying it, keeping it at the premises or producing it for inspection, P 7168 Limited stated that it had been lost to try and circumvent any possible prosecution. Guoying Liu indicated that he had moved house however; the Licensing Authority had never been notified of his change of address which is contrary to Section 33 which is also punishable by a fine of £500, which was indicative of the management's attitude toward the Act.

PC Ellis informed the Sub-Committee that on 7 February 2014 the review hearing for the Noble House took place whereupon the Sub-committee fully supported South Wales Police and revoked the licence.

PC Ellis also informed the Sub-Committee subsequent enquiries into P 7168 Limited show that it is also one of 1,126 companies within the structure of ITCA (GB) Limited, and that P 7168 Limited is also based at Winston Churchill House. A company search revealed that P 7168 Limited was incorporated on 5 September 2013. David Fisher is listed as company secretary of P 7168 Limited having been appointed on 5 September 2013. ITCA (GB) Limited was appointed company secretary on 5 September 2013 and resigned the same day. The sole company director of P 7168 Limited is Bryan Fentham Banks who was appointed also on 5 September 2013. He was appointed as the sole board member on 8 November 2013 and has convictions for drug and theft offences. PC Ellis stated that Simon Yuen Choi Poon was appointed company director on 5 September 2013 and resigned the same day.

PC Ellis informed the Sub-Committee of a company called F (30) Limited being under the umbrella of ITCA (GB) Limited, which has also given Winston Churchill House as its address and was incorporated on 9 May 2011. The sole company director is Simon Yuen Choi Poon who was appointed on 9 May 2011 and has also given his address as c/o Winston Churchill House. There is no company secretary listed.

PC Ellis informed the Sub-Committee in relation to the holding company ITCA (GB) Limited which was newly incorporated on 21 November 2011. He stated that the sole company director is Simon Yuen Choi Poon who was appointed on 21 November 2011 and there was no company secretary listed. Simon Yuen Choi Poon is or has been company director or company secretary of 6 companies referred to in these representations 3 of which have been heavily fined.

PC Ellis informed the Sub-Committee that the guidance issued by the Home Office in relation to the review process is specific and very clear and focuses on “Reviews Arising in Connection with Crime”. He stated that Sub-section 11.27 of the guidance highlights that certain criminality should be treated particularly seriously, these activities include the use of licensed premises: -

- For the sale and distribution of Class A drugs
- For the laundering of the proceeds of drugs crime
- For the sale and distribution of illegal firearms
- For the sale of alcohol to minors
- For prostitution or the sale of unlawful pornography
- By organised groups of paedophiles to groom children
- As the base for organised criminal activity, particularly by gangs
- For the organisation of racist activity
- For the promotion of racist attacks
- For unlawful gambling
- For the sale of smuggled tobacco and alcohol

PC Ellis informed the Sub-Committee that these are serious offences and there is a growing concern with the number of illegal migrants working in the UK that the Home Office has included alongside these serious criminal activities, namely knowingly employing a person who is unlawfully in the UK.

PC Ellis informed the Sub-Committee that on 4 occasions over an 18 month period serious offences under the Immigration, Asylum and Nationality Act 2006 have been committed at the Golden Bowl as 10 male and female Chinese migrant workers have been employed all of whom had entered the UK illegally and were not permitted to work. As well as the immigration offences evidenced licensing offences and other offences have also been committed. One of the original key elements of licensing legislation was to provide a gradual dispersal of customers. PC Ellis stated that the takeaway is situated in the “Saturation Area” subject to the local authority’s “Statement of Licensing Policy” where licensing hours are tailored to individual premises.

The Operational Police Lawyer questioned PC Ellis in relation to the display of a sign showing later opening hours of trading at the premises. PC Ellis confirmed that there was a sign at the premises displaying later opening hours of trading which was then removed from the premises. He also confirmed that the Premises Licence Holders would have been aware they should have not been open for business later than midnight.

PC Ellis informed the Sub-Committee that on Friday 17 January 2014 licensing officers tasked Bridgend town centre officers with ascertaining if the new licence holder was complying with the authorisation. On Sunday 19 January 2014 officers noted that the takeaway was open 20 minutes after the authorised hours of midnight and two staff members were on duty behind the counter with a customer waiting inside. The sign in

the front window was illuminated further indicating that the premises were open for business. However; the lights were immediately switched off when staff realised that officers were observing their activities. Clearly South Wales Police had such serious concerns regarding this takeaway that a revocation application was submitted of which the new licence holder, P 7168 Limited was fully aware. PC Ellis stated that what of major concern was that the takeaway was not only open outside its hours but the offence was committed just three weeks after the first review hearing took place. This was despite the assurances given by David Fisher, the secretary of P 7168 Limited that the takeaway would close on time and the illegal opening times would be removed. PC Ellis stated that the attitude toward the Licensing Act of persons responsible for this takeaway was such that they were not only prepared to engage in licensable activity outside their permitted hours but also blatantly publicise opening times which are not authorised by the licence. The Golden Bowl has been subject of enforcement by both South Wales Police and the UK Border Agency, yet despite this attention serious offending continued.

360 EXCLUSION OF THE PUBLIC

RESOLVED: That under section 100A(4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, the public be excluded from the meeting during consideration of the following items of business as they contain exempt information as defined in Paragraphs 12, 13, 14 & 18 of Part 4 and/or of Part 4, and Paragraph 21 of Part 5 of Schedule 12A of the Act.

Following the application of the public interest test it was resolved that pursuant to the Act referred to above to consider these items in private, with the public excluded from the meeting, as it was considered that in all the circumstances relating to the items, the public interest in maintaining the exemption outweighed the public interest in disclosing the information, because the information would be prejudicial to the applicants.

<u>Minute No.</u>	<u>Summary of Item:</u>
361	Licensing Act 2003 - Review of Premises Licence – Golden Bowl Chinese Takeaway, 80 Nolton Street, Bridgend - Appendix C only