

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

PC Ellis informed the Sub-Committee that Section 11 of Home Office guidance issued under Section 182 of the Licensing Act relates to reviews, this Guidance dictates that licence holders who had not responded to warnings issued by responsible authorities and failed to improve will be subject of the review process. He stated that South Wales Police were of the opinion that other forms of enforcement had been exhausted and review was now the only option. PC Ellis informed the Sub-Committee that the Licensing Act was introduced in November 2005 and there were currently around 550 licensed premises located within the County Borough. PC Ellis stated that to understand the overall picture of enforcement since this period specifically in relation to reviews South Wales Police has had to review the authorisations of 14 premises in order to promote the licensing objectives, which equated to fewer than two reviews each year. He stated that taking into consideration the Home Office guidelines that, "Licensing authorities should look to the police as the main source of advice on crime and disorder" it was strongly recommended to previous meetings of the Licensing Sub-Committee that 10 of those authorisations should be revoked. The police did not propose that authorisations be forfeited unless it was felt absolutely necessary to promote the licensing objectives. He stated that what was alarming is that 43% of reviews concern premises which are located in the "Saturation Area" subject of the local authority's "Statement of Licensing Policy". He informed the Sub-Committee that this review again relates to a premises situated within the "hot spot" area.

PC Ellis informed the Sub-Committee that on 22 October 2013 South Wales Police made an application to revoke the licence of the Golden Bowl. At the time of the application Siu Liu was the holder of the Premises Licence which was issued in 2005. He informed the Sub-Committee that a hearing was listed for 16 December 2013 however; on the day of the hearing South Wales Police received an application to transfer the licence to P 7168 Limited. He stated that what was of significance is that not one of the previous premises reviewed had made an application to transfer the licence after the review application had been served. Representing the new company at that hearing was David Fisher, who introduced himself as the company secretary, and Wendy Wang who was acting as legal advisor and interpreter for Siu Liu.

PC Ellis informed the Sub-Committee on 30 October 2013 the licence of the Golden Bowl was reported as being lost, the reporting person was David Fisher who gave his address as 80 Nolton Street. PC Ellis stated that David Fisher therefore had an association with the takeaway which went back to October 2013 at least and the fact that he had reported the loss of an important document would suggest that he has some influence at the premises. PC Ellis informed the Sub-Committee that on the day of the hearing, and despite the serious offences committed by Siu Liu, David Fisher informed South Wales Police that it was his company's intention to continue to employ her at the takeaway. This was not acceptable to South Wales Police. Siu Liu was asked about her relationship with Guoying Liu and said that he was her ex-husband and father of her children. Guoying Liu was working at the Golden Bowl when the UK Border Agency conducted an enforcement visit in January 2013 and arrested illegal migrants. Siu Liu was also asked if he was concerned with any takeaways and said, "No". However; she would have been fully aware that Guoying Liu was the licensee of the Noble House Chinese Takeaway. Assurances were subsequently given by David Fisher that: -

- (A) No illegal immigrants would be employed at the takeaway
- (B) Siu Liu would no longer be employed at or have anything to do with the business
- (C) The authorised hours would be adhered to
- (D) Signage displaying the illegal opening hours would be removed.

PC Ellis stated that despite his company proposing to be the holder of the licence David Fisher thought that the premises was permitted to open until 02.00am and that the review related to fighting and disorder at the takeaway. He clearly not only had scant knowledge of the basics of the licence, which was appended to the review, but had not bothered reading the application which highlighted in some detail the immigration problems at the takeaway, which was at variance given that his company now wished to hold the licence. PC Ellis stated that the assurances given to South Wales Police at the review hearing including the new company having no association with the old resulted in the review application being withdrawn. It was thought that these assurances were genuine which had proved not to be the case as David Fisher has reneged on those assurances. Furthermore every licence within the County Borough specifies either a named company or a named person or persons as licence holder, not one authorisation referred to a reference such as P 7168 Limited. It was the belief of South Wales Police that the transfer was made to circumvent the review process which had since proved to be the case.

PC Ellis informed the Sub-Committee that Wendy Wang had also attempted to get 2 previous hearings postponed, in that on 16 November 2013 she e-mailed the Licensing Authority stating David Fisher was on leave from 18 November 2013 to 4 February 2014 and could not attend the hearing on 23 January 2014 concerning the transfer of the licence. David Fisher then turned up, albeit late, and also requested the hearing be postponed as he wanted legal representation. This was despite the fact that there was a requirement on the attendance form LAR 1 which specifically asked attendees if they will be legally represented. On 7 February 2014 Wendy Wang again contacted the Licensing Authority informing them that the hearing for the review application for the Noble House could not go ahead that day as the new licence holder, Rui Ya Wang was ill, this was incorrect as she also turned up.

PC Ellis informed the Sub-Committee there is only one licensable activity authorised by the licence and that is the provision of late night refreshment. A licence is only required if it is intended to provide hot food and drink between 23.00hrs and 05.00hrs, which was important when the Sub-Committee makes its deliberations. He stated that the grounds for review are based on promoting 2 licensing objectives and the offending associated with the premises demonstrates that there had been a failure to promote those objectives and an unwillingness to remedy the situation.

PC Ellis informed the Sub-Committee that criminality associated with the Golden Bowl impacts on the crime prevention and public safety objectives relate to 4 offences: -

- 1) Entering the UK without leave contrary to Section 24(1)(a) of the Immigration Act 1971.
- 2) Employing an adult subject to control who had not been granted leave to enter / remain in the UK contrary to Section 21 of the Immigration, Asylum and Nationality Act 2006.
- 3) Carrying on a licensable activity otherwise than under and in accordance with the Premises Licence and the conditions which form part of it.
- 4) Offences under the Fraud Act

PC Ellis stated that additionally management is clearly aiding the offence of illegally entering the UK by offering regular employment opportunities to migrants contrary to Section 8 of the Accessories & Abettors Act 1861. He stated that the natural meaning of "to aid" is to "give help, support or assistance to" and the penalties for committing these offences have been outlined in the review. A Section 136 offence is the most serious under the Licensing Act and is reflected in the penalty which is: -

- 1) A fine of up to £20,000 and/or a term of imprisonment on summary conviction not exceeding 6 months and
- 2) The Premises Licence may be reviewed.

PC Ellis stated that the penalties for committing each offence are therefore severe and the UK Border Agency is generally responsible for policing matters relating to immigration.

PC Ellis informed the Sub-Committee that Sub-section 11.5 of the review guidance supports a number of key aims and purposes which include protecting the public from crime caused by irresponsible licensed premises.

PC Ellis directed the Sub-Committee to the heart of the representations and to focus on the immigration offences then the mind-set towards immigration offences replicates that of Premises Licence Holders attitude toward the Licensing Act. To prevent the employment of illegal migrants there are a number of web site pages freely available some of which are detailed in the supporting documentation. There is also a help line manned by UK Border Agency staff. There is therefore assistance available to employers and as such there is 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 migrants.

PC Ellis informed the Sub-Committee that the 10 Chinese nationals found to be working at the Golden Bowl who had entered the UK illegally and were not permitted to work was broken down as follows, in that on 22 March 2012, a warrant was executed and 2 migrants were encountered one of whom was arrested. On 20 April 2012 a penalty of £10,000 was served on a company called C Eagle Limited (£5,000 x 2). The UK Border Agency informed South Wales Police on 22 January 2014 that nothing has been paid and the case had been passed to a debt recovery solicitor for further action.

The Operational Police Lawyer questioned whether C Eagle Limited was another of those Companies whose address is Winston Churchill House. PC Ellis confirmed that this was the case, this was incorporated on 4 July 2011, Zhenlei Tian is the sole company director and was appointed on 29 March 2012 and is listed as a Chinese national residing in China. There is no company secretary currently listed.

The Operational Police Lawyer questioned the relevance of C Eagle Limited to the Golden Bowl. PC Ellis informed the Sub-Committee that C Eagle Limited is another one of those companies whose address is Winston Churchill House.

PC Ellis informed the Sub-Committee that on 25 January 2013 a warrant was again executed and 3 illegal migrant workers were found to be working, 2 were arrested and escorted to a detention centre for deportation. On 28 March 2013 a penalty of £15,000 was served on a company called N Ocean Limited (£5,000 x 3). Simon Yuen Choi Poon was appointed as company secretary on 6 March 2012 but resigned the same day. He stated that the UK Border Agency informed South Wales Police on 22 January 2014 that again absolutely nothing had been paid and the case had been passed to a debt recovery solicitor for further action.

The Operational Police Lawyer questioned the relevance of N Ocean Limited to the Golden Bowl. PC Ellis informed the Sub-Committee that N Ocean Limited is another of those companies within the structure of ITCA (GB) Limited and is also located at Winston Churchill House and incorporated on 6 March 2012. Lianmei Chen is the sole company director and was appointed on 6 March 2012 and is listed as a Chinese national residing in China. There is no company secretary listed. Simon Yuen Choi

Poon was appointed as company secretary on 6 March 2012 but resigned the same day.

PC Ellis informed the Sub-Committee that a third warrant was executed and another migrant was arrested on 13 May 2013. South Wales Police only became aware of the first two incidents after the third warrant was executed and subsequently dealt with these matters by way of a warning letter. This course of action was undertaken to try and deter management from employing any further illegal workers. Neither the severe financial penalty nor the warning letter had any effect as on 23 August 2013 UK Border Agency Officers executed a fourth arrest warrant and found 10 staff members working, 7 of those encountered were Chinese nationals 2 of which held British passports, 4 had illegally entered the UK of which 2 had applied to the Home Office for asylum but their applications had not been determined and 2 were arrested, 1 was Guoying Liu himself who gave his address as 5 Maes Trawscoed, Broadlands, Bridgend, 2 others were British subjects. All the Chinese nationals were found to be working in the kitchen however; several denied being employed at the Golden Bowl. What was of serious concern is that at the time of the visit none of the 10 employees, including the British citizens, would divulge the name of their employer which has also been the case at the Noble House. PC Ellis stated that this in itself was not only sinister but was contrary to Sub-section 11.11 of the guidelines which emphasises a partnership approach between licence holders and responsible authorities. He stated that these facts would suggest 3 things: -

- 1) Illegal migrant workers have been employed with the full knowledge of the management.
- 2) There is a conspiracy between employer and employee as they have clearly been instructed not to disclose who had employed them in order to avoid detection by the authorities.
- 3) Furthermore the number of illegal migrant workers found at the takeaway implies that there is a need for several persons to be employed.

However these employment opportunities have been denied to persons who are entitled to work. Instead there is potential to exploit often vulnerable staff members in relation to their working hours and conditions and in the current climate of austerity there is also potential to defraud the UK of tax.

PC Ellis informed the Sub-Committee that as none of the employees would inform the UK Border Agency who was responsible for the premises the Home Office issued a Notice of a Potential Fine on Lmay Choi under the business name of A Best Limited. The fine was served on 23 October 2013 for an amount of £15,000. On 22 January 2014 the UK Border Agency informed South Wales Police that not a penny had been paid and the case had been passed to a debt recovery solicitor.

The Operational Police Lawyer questioned whether the fines incurred by the companies had been paid and whether they had all gone into liquidation and based at Winston Churchill House. PC Ellis informed the Sub-Committee that all the companies referred to are based at Winston Churchill House and no fines had been paid. He could not confirm whether all the companies had gone into liquidation.

PC Ellis informed the Sub-Committee that A Best Limited was yet another of those companies within the structure of ITCA (GB) Limited and also located at Winston Churchill House in Birmingham, and was newly incorporated on 7 February 2013. He stated that David Fisher was appointed company director of A Best Limited on 7 February 2013 but resigned on 19 August 2013. Simon Yuen Choi Poon was appointed company director of A Best Limited on 7 February 2013 but resigned the same day. The current company secretary was also appointed on 7 February 2013

detailed as ITCA (GB) Limited, the holding company. Ding Wang is the only company director and was appointed on 19 August 2013 and is listed as a Chinese national residing in China.

PC Ellis informed the Sub-Committee that it had emerged during the course of these investigations that Guoying Liu had given his address on the licence of the Noble House as the Golden Bowl which again differs from the address given on the licence of the Dragon House situated in Caerau, Maesteg where he is also licensee. These two addresses differ again from the address Guoying Liu had given when he had reported incidents and when he was recently arrested. Providing multiple addresses would strongly emphasise attempts to deceive the authorities. He stated that the changes of address had never been disclosed to the Licensing Authority which is contrary to Section 33 of the Act, the penalty for which is Level 2 on the scale, carrying a maximum fine of £500.

PC Ellis informed the Sub-Committee that the application to transfer the licence related to P 7168 Limited, a company which now holds the licence of the Golden Bowl yet substantial fines amounting to £40,000 have been served on A Best Limited, A Pool Limited, N Ocean Limited and C Eagle Limited. All 4 companies are located at Winston Churchill House whilst 3 are under the umbrella of the holding company ITCA (GB) LTD. He stated that David Fisher is a former director of ITCA (GB) Limited as well as being a former director of A Best limited and secretary of P 7168 Limited. Not a penny of the fines had been paid.

PC Ellis informed the Sub-Committee that that was the second review application submitted since December 2013 and as a consequence of receiving a review it was common practice for respondents to propose that additional conditions are appended to the licence to promote the licensing objectives in an attempt to prevent the Sub-Committee from placing their own conditions on the authorisation which may be onerous. He stated that this was particularly the case for applications to revoke licences and ordinarily would ask that the Sub-Committee consider the additional conditions. In this case there were none proposed but no documentation offering any sort of mitigation had been served.

He informed the Sub-Committee that the bundle before it relates solely to documentation served by South Wales Police as well as the Legal Officer's report and not a single document has been served by P 7168 Limited in response to the review. He stated that save for an application to transfer the licence to P 7168 Limited there had been no response whatsoever to the review application, which was extremely rare.

PC Ellis informed the Sub-Committee that conditions would not be volunteered which would cost money as the offences committed to date relate to saving money by exploiting illegal immigrants. He stated that even if conditions were to be volunteered there had clearly been an unwillingness to adhere to the most basic of current conditions of closing on time. Every opportunity had been afforded to address offending yet despite enforcement there has been a persistent failure to promote the objectives. He stated that it would be highly unlikely that any further conditions would be complied with and if the application was successful South Wales Police believe that the premises would have to be regularly visited to ensure compliance with the Sub-Committee's decision.

PC Ellis concluded that in 2013 three warrants were executed at the Noble House and 10 migrants were found working, 2 penalty notices for fines totalling £32,500 had been issued to one company, A Pool Limited. Between March 2012 and November 2013 four warrants were executed and 10 migrant workers were found working at the Golden Bowl. Three penalty notices for fines totalling £40,000 have been issued to 3 companies, A Best Limited, N Ocean Limited and C Eagle Limited, 3 of these 4 companies are under the umbrella of ITCA (GB) Limited. He stated that they were in

essence all ghost companies with a post box address; they have no typical company structure and are unaccountable. PC Ellis stated that in total 7 warrants have been executed at the 2 takeaways and 20 Chinese migrants found working who had illegally entered the UK, 16 had been arrested. The 5 penalty notices amount to fines totalling £72,500 but the Home Office had never received a penny.

PC Ellis stated that the most serious of licensing offences had also been committed at the Golden Bowl as well as offences of fraud committed by a delivery driver whilst another employee is concerned with the supply of drugs. He stated that this not only presents as a serious failure to promote the objectives but the immigration offences alone are those which the guidelines dictate should trigger a review and requested the Sub-Committee consider revocation.

363 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.

Minute
No.

Summary of Item:

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Licensing Act 2003 - Review of Premises Licence – Golden Bowl Chinese Takeaway, 80 Nolton Street, Bridgend - Appendix C only