

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

Mr Fisher informed the Sub-Committee of the intention to surrender the premises licence. He stated that they had lost control of the premises and that was unacceptable. He informed the Sub-Committee that ITCA (GB) Limited incorporate the other companies within its structure as the takeaway businesses are cash trade businesses.

Ms Wang informed the Sub-Committee that ITCA (GB) Limited set up ready-made companies for Chinese takeaways. Mr Fisher informed the Sub-Committee that the companies involved were not umbrella companies.

He also informed the Sub-Committee that he knew nothing of the Dragon House takeaway. The Operational Police Lawyer stated that Guoying Liu holds another premises licence that of the Dragon House.

Mr Fisher informed the Sub-Committee that it was the intention of P 7168 Limited to leave the Golden Bowl. Ms Wang informed the Sub-Committee that she had asked Rui Ya Wang to attend the hearing for the Noble House takeaway as Mr Fisher was on holiday and she was unwell. She stated that they had tried to co-operate with the police and local authority and that the business at the Golden Bowl was falling apart. Mr Fisher informed the Sub-Committee they were not looking for problems emanating from the business to escalate.

The Chairperson invited both parties to make closing statements.

Mr Fisher stated that he wished to apologise to all parties and that P 7168 Limited would surrender the premises licence.

The Operational Police Lawyer informed the Sub-Committee that South Wales Police was seeking the revocation of the premises licence of the Golden Bowl and that it would have to close at 2300 hours. Despite warning letters having been sent and the non-payment of fines there had been a flagrant disregard by the Premises Licence Holders to the proper governance of the premises and these hearings. She stated that the Premises Licence Holders had been given the benefit of the doubt but had continued to trade after midnight in contravention of the late night refreshment licence. The Premises Licence Holders had no regard to the Council or South Wales Police and therefore, revocation of the late night refreshment licence was sought.

PC Ellis informed the Sub-Committee that Section 11.16 of Home Office guidance refers in particular to the powers of a committee on the determination of a review. It states that, "The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives". He stated that Sub-section 11.18 details that, "Where responsible authorities have already issued warnings requiring improvement that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate". Notices of potential penalties, subsequent fines and warnings have been issued by 2 authorities yet each area of enforcement had been treated with contempt.

He stated that the options available to the Sub-Committee were clearly laid out in the guidance at Sub-section 11.19. Any decision made by the Sub-Committee must be taken following consideration of the representations received with a view to promoting the four licensing objectives.

1) Take no action - This was not a course of action South Wales Police expect the Sub-Committee to take as it will not promote the objectives.

- 2) Modify conditions - There seemed little point in amending or adding conditions as the most basic of restrictions of closing on time had not been adhered to.
- 3) Exclude a licensable activity - The authorisation permits the provision of late night refreshment only and if the Sub-Committee exclude that it will effectively revoke the licence, albeit that is what South Wales Police was advocating very strongly.
- 4) Suspend the Premises Licence for a period not exceeding three months – if it was determined to suspend the authorisation then this course of action would promote the objectives but would be a short term fix only and the licence holder will quickly revert to type.
- 5) Ultimately revoke the licence - South Wales Police have grave concerns over the management of the premises and feel that this will not change due to the antecedent history and the recent pattern of crimes committed in relation to the Licensing Act, the Immigration Act as well as the Fraud Act.

PC Ellis stated that what should be of serious concern to the Sub-Committee is the attitude displayed to the authorities in relation to offending as enforcement had been completely ignored. The first visit by the UK Border Agency in March 2012 should have served as a warning of the authorities' interest in unlawful activities. However this was no deterrent as a second visit in January 2013 evidenced further offending which resulted in a large fine being issued for again employing illegal migrant workers. During a third visit in May 2013 another illegal migrant was found working at the takeaway. A letter was then served in July 2013 warning that if any further immigration offences were committed South Wales Police intended making application to revoke the licence. This had no effect whatsoever. Clearly enforcement by the UK Border Agency in January 2013 post-dates their first visit to the Golden Bowl in March 2012.

PC Ellis informed the Sub-Committee that a warning was issued by South Wales Police in July 2013. Despite that warning, the previous arrest of employees and a substantial fine, illegal migrant workers were again employed in August 2013 causing the UK Border Agency to issue another fine which was £30,000 double that of the first penalty imposed.

PC Ellis also informed the Sub-Committee that the takeaway was subsequently found to be open outside its restricted hours in November 2013 and again in January 2014. Offending in August 2013 and the potential fines imposed pre-date the serious licensing offence committed after that date. He stated that this was a clear indication that any enforcement would be ignored and presented as an abject failure to promote the objectives at a premises situated in the "hot spot" area.

PC Ellis referred to Sub-section 11.28 of the guidance which is very clear in that if not only instructs responsible authorities to use reviews effectively to prevent the offences referred to from being committed..... but when reviews arise it expects Licensing Sub-Committees to seriously consider revoking the licence if the crime prevention objective is being undermined. He stated that what was very significant is that it suggests that this should be the course of action, "even in the first instance" and this is an area of the guidance which offers committees little room for manoeuvre.

PC Ellis informed the Sub-Committee that entering the United Kingdom without leave and employing an adult who had not been granted leave to enter/remain in the UK are offences which impact on the crime prevention and public safety objective and South Wales Police suggest that, given the guidelines, these offences alone should warrant revocation of the licence. However; the crime prevention objective is further compromised by the seriousness of the offences committed under the Licensing and Fraud Acts. Previous enforcement by 2 authorities has been wholly ineffective and

South Wales Police are of the opinion that offending had not been committed as a consequence of ignorance or error but is a deliberate and determined effort to deceive the authorities. He believed that the situation would not change and the enforcement carried out to date merits that serious consideration must be given to revoking the premises licence.

PC Ellis stated that he had highlighted at the commencement of these representations that authorisation is only required if it is intended to provide hot food and drink between 11.00pm and 05.00am and if the Sub-Committee determines revoking the licence will promote the licensing objectives then the decision will mean that the respondent will not be able to sell hot food between 11.00pm and midnight and that only one hour of licensable activity will have been forfeited. He stated that the takeaway may still operate from 5.00am to 11.00pm daily.

The Operational Police Lawyer informed the Sub-Committee that the application made by Chief Superintendent Ruddy on behalf of the Chief Constable of South Wales Police.

The Sub-Committee adjourned at 11.48am and reconvened at 12.12pm.

RESOLVED: The Sub-Committee have heard today the representations made by South Wales Police in support of their application to review the premises licence of the Golden Bowl. The Golden Bowl is a Chinese takeaway which holds a late night refreshment licence to operate between 2300 and 0000hours Monday to Sunday. The Sub-Committee have also heard what the representatives of the licence holder have had to say in response to the case presented by the Police.

Firstly the Sub-Committee accept the submission of the Police that the Noble House and Golden Bowl are sufficiently linked that matters pertaining to the Noble House are also relevant to the Golden Bowl. The Sub-Committee have therefore taken all matters relating to both these premises into account.

The Sub-Committee are concerned that the premises have been found to have employed many illegal workers on several separate occasions in 2012 and 2013 and despite hefty fines, do not appear to have learned a lesson or been deterred from doing so. The Sub-Committee has had regard to section 11.27 of the Home Office Guidance which states that knowingly employing illegal workers is a criminal matter which should be taken particularly seriously and considers that this type of offence repeatedly occurring on the premises does undermine the Licensing objective of Preventing Crime and Disorder.

In addition, the Sub-Committee accepts the evidence of the Police that even since P7168 Ltd has been licence holder, there have been incidences of breaches of the Licensing Act by

closing later than the Licence permits. The Sub-Committee have also heard that the premises are actively advertising that they remain open later than permitted by Licence. Adhering to permitted opening hours is fundamental to the prevention of public nuisance and the prevention of crime and disorder.

The Sub-Committee are concerned that the warnings given by South Wales Police and the enforcement action taken by the UK Border Agency have been disregarded. The Sub-Committee has grave concerns over the management of the premises concerned and therefore believe that it is necessary and proportionate to revoke the licence.