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Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Wednesday, 24 January 2024 at 2.50 pm.

Present:

Sub-Committee:

Chairman: Councillor S B Blair

Councillors: D G Cronk
D J Parks

Officers:

Legal Adviser: Principal Lawyer - Litigation and Regulatory
Licensing Officer: Licensing Manager
Licensing Officer
Administrator: Democratic Services Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/2024/0004R).

26 APOLOGIES FOR ABSENCE

There were no apologies for absence.

27 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute members appointed.

28 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

29 LICENSING ACT 2003 - APPLICATION FOR THE REVIEW OF A PREMISES LICENCE FOR DOVER INTERNATIONAL SUPERMARKET, 68 PENCESTER ROAD, DOVER

The Sub-Committee considered an application for the review of a premises licence in respect of Dover International Supermarket, 68 Pencester Road, Dover, CT16 1BW made under section 51 of the Licensing Act 2003 as requested by Raj Hundal – on behalf of the Home Office Immigration Enforcement, on the grounds that Dover International Ltd, under the control of Yilson Sayin (Premises Licence Holder and Designated Premises Supervisor) employed an illegal worker.

The meeting on 24 January 2024 was delayed starting by reason that the Legal Adviser sought clarification from Harry Taylor (Chief Immigration Officer – Home Office Enforcement) and Amy O’Riordan (Immigration Officer) (both present at the hearing) as to the significance (if any) of a publicly available Home Office Enforcement Guidance and whether it impacted on the Review application. By the time the Home Office position was confirmed Yilson Sayin and Bilal Tiktiklar (Store Manager), who were both present, were unable to stay and left the meeting. The Sub-Committee opened the hearing at 2.50 pm and in the absence of Yilson Sayin the Licensing Manager advised she had requested the hearing be adjourned and

reconvened to a future date with a morning start. The hearing was adjourned to 18 February 2024 at 10.00 am.

The hearing reconvened with the same Members on 18 March 2024 at 10.00 am and it was advised that Yilson Sayin had informed the authority that she did not intend to attend or be represented at the hearing. The hearing proceeded in her absence; Ms Sayin's written representation was considered.

The following documentary evidence and/or other information was taken into account by the Sub-Committee:

- (i) The Licensing Manager's report including, the options available to the Sub-Committee
- (ii) The current Premises Licence for Dover International Supermarket (appendix A of the agenda)
- (iii) Map of the area (appendix B of the agenda)
- (iv) Review application submitted by Home Office (redacted) and the Licensing Authority have identified persons as Person 1, Person 2, Person 3 and Person 4 (agreed by the applicant) (appendix C of the agenda)
- (v) Relevant sections from the Section 182 guidance in relation to illegal working in licensed premises (appendix D of the agenda)

On the basis of the representations of the Responsible Authority (Home Office Immigration Enforcement for the Responsible Authority) and written representation from Yilson Sayin (Premises Licence Holder and Designated Premises Supervisor), the Sub-Committee found the following facts to be established:

- (i) The Hearing was adjourned from 24 January 2024.
- (ii) That under section 51 of the Licensing Act 2003, Raj Hundal, on behalf of Home Office Immigration Enforcement as the Responsible Authority, submitted a review application for Dover International Supermarket for reason of illegal working thereby undermining the licensing objective of preventing crime and disorder.
- (iii) The premises had been licensed since 8 July 2021 and the licensable activities were: Alcohol Sales (OFF the premises) Monday – Saturday 08:00 – 23:00 hrs, Sunday 10:00 – 22:00 hrs (with non-standard timings on Good Friday and Christmas Day).
- (iv) Amy O'Riordan on behalf of the applicant stated a number of general concerns relating to illegal working including, that the ability to work illegally was key to migration and individuals may take risks to enter the UK; there was a risk of exploitation by employers; the practice could undercut legitimate business; there may be an element of tax evasion; and that the practice may breach the national wage.
- (v) It was confirmed that Immigration Enforcement were intelligence led and would only attend a premises where a significant concern had been highlighted; action must be taken within 3 months of receiving relevant and timely intelligence.

- (vi) On 3 August 2023 officers of South East Immigration Enforcement and Compliance (ICE) team (accompanied by an officer from Dover Licensing) attended the Dover International Supermarket and identified one illegal worker in the premises. That individual had pretended to be a customer.
- (vii) Officers conducted an illegal working interview with the identified illegal worker. The individual had stated: they had been working for around two months although, had no fixed rota; they had initially been refused work at the premises however, the individual was then permitted to work; that the employer had not conducted a right to work check; and that the employer knew the individual did not have a right to work in the UK.
- (viii) Home Office Immigration Enforcement confirmed this to have been the first enforcement visit to the premises and save for being invited by a partner agency there would be no follow up unless new intelligence was received.
- (ix) The Sub-Committee sought clarity because the illegal worker had not identified the Premises Licence Holder / Designated Premises Supervisor as the person who had employed them. Home Office Immigration Enforcement confirmed that the Premises Licence Holder retained the overall responsibility for complying with the requirements.
- (x) Home Office Immigration Enforcement stated that a civil penalty had been paid by the licence holder (issued to the licence holder at the value of £15,000) however, this was separate and distinct from the licensing regime.
- (xi) Home Office Immigration Enforcement sought the revocation of the premises licence although, put forward condition wording should the Sub-Committee determine a lesser action was appropriate for the promotion of the 'prevention of crime and disorder' licensing objective:
 - The licence holder must carry out checks relating to the right to work of all their employees working at the premises, and any prospective employees before entering into a contract of employment.
 - The licence holder must retain copies of documents as a result of conducting checks relating to the right to work. These must be stored securely at the premises, or a digital copy must be immediately accessible from the premises for ease of inspection by immigration officials, the police, local authority or another relevant officer.
 - The licence holder, or any person appearing to represent the licence holder, must be able to produce immediately documents relating to the right to work at the request of an immigration officer, the police, local authority or another relevant officer.

The Sub-Committee had taken into account the following:

- (i) Dover District Council's Licensing Policy
- (ii) The Licensing Act 2003 and in particular the guidance given under Section 182 of the Act
- (iii) Article 6 of the Human Rights Act (Right to a fair trial)

- (iv) Section 17 of the Crime and Disorder Act 1998 (Duty to consider crime and disorder implications)

The Sub-Committee had decided to:

- (a) Modify the conditions of the licence in accordance with the proposal by the applicant as follows:
 - (i) The licence holder must carry out checks relating to the right to work of all their employees working at the premises, and any prospective employees before entering into a contract of employment.
 - (ii) The licence holder must retain copies of documents as a result of conducting checks relating to the right to work. These must be stored securely at the premises, or a digital copy must be immediately accessible from the premises for ease of inspection by immigration officials, the police, local authority or another relevant officer.
 - (iii) The licence holder, or any person appearing to represent the licence holder, must be able to produce immediately documents relating to the right to work at the request of an immigration officer, the police, local authority or another relevant officer.

The meeting ended at 3.05 pm.