

## **DECISION NOTICE - LICENSING ACT 2003 SUB-COMMITTEE**

### **REVIEW OF THE PREMISES LICENCE – TAVAN RESTAURANT GROUND FLOOR 77 LINCOLN ROAD**

**15 MAY 2023**

This Decision Notice refers to the review of the premises licence Tavan Restaurant Ground Floor 77 Lincoln Road.

The sub-committee considered the representations made to them today and in writing in support of the review by:

- The Home Office Immigration Service
- The Police

The review application was submitted by Home Office Immigration Enforcement following two visits to the premises, the first in May 2022 and the second in November 2022. The review was supported by the police as a Responsible Authority.

The Premises Licence Holder is Burgas Sea Limited, and the Designated Premises Supervisor is Mr Chavadar Zhelev. The business operator and manager is also Mr Zhelev.

The licence currently permits:

- Live music indoors
- Recorded music indoors
- Performance of dance indoors
- Provision of late night refreshment
- Sale by retail of alcohol

The opening hours are 1000hrs to 0100hrs Monday through to Sunday.

An Egyptian national was found to be working at the restaurant who was not legally entitled to work in the UK, therefore he was an illegal migrant worker.

On the first visit this individual was arrested, then later released, then found to be working at the restaurant on the second visit.

The sub-committee reviewed the committee papers put before them containing the Licensing Officer's report; the review application and supporting information; and current premises licence.

One representation in support of the current licence holder had been received. This representation although noted, did not directly relate to the licensing objective in question so was respectfully disregarded.

The sub-committee heard in person from:

- Mr A Cave who represents the premises licence holder
- The Home Office Immigration Service
- The police

Mr Cave confirmed that on the second visit the individual in question was working in the kitchen of the restaurant, albeit on a trial and the necessary checks were not conducted. The Immigration Service gave the benefit of doubt to the individual on the first visit.

The sub-committee in their deliberations referred to:

- Peterborough City Council's Statement of Licensing Policy
- The Government Guidance issued under section 182 of the Licensing Act 2003
- Licensing Act 2003
- Immigration Act 2016

Section 36 and Schedule 4 of the Immigration Act 2016 amends the Licensing Act 2003, by introducing "due diligence" for employers when employing workers, or in other words, "right to work checks". Employers must ensure that prospective employees are entitled to work in the UK. Also, it makes it a criminal offence to employ workers who are not legally entitled to work in the UK.

Illegal workers generally do not pay income tax or national insurance. They are generally not entitled to paid holidays and other statutory employment benefits; and are often forced or coerced into modern slavery.

Employers who employ illegal workers are often driven by profit.

**The Statutory Government Guidance states at Paragraph 11.27:**

There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises, amongst other things:

- for employing a person who is disqualified from that work by reason of their immigration status in the UK

**And at Paragraph 11.28:**

It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

The sub-committee disregarded matters that do not relate to the licensing objective in question, and those that fall outside of this Sub Committee's remit.

It is the function of the Licensing Sub Committee to take steps with a view to the promotion of the licensing objectives and in this instance, the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.

The options that were available to the sub-committee included:

- modify the conditions of the premises licence
- exclude a licensable activity from the scope of the licence
- remove the designated premises supervisor
- suspend the licence for a period not exceeding three months;
- revoke the licence

The sub-committee take a serious view of employing illegal migrant workers, for the reasons stated above. The sub-committee considered revoking the licence; suspending the licence; removing the designated premises supervisor.

The sub-committee were mindful that they were dealing with one individual on one occasion, and have taken into account Mr Zhelev's previous working experience and character.

**The decision:**

The decision of the sub-committee in order to promote the licensing objective in question, that namely the prevention of crime and disorder, believe it necessary to:

- Remove Mr Zhelev as the Designated Premises Supervisor
- To add the following condition:
  - CCTV to be installed and operating in the kitchen area whilst the premises are open to the public. Footage to be made available to Home Office Immigration Officers, the Police including Police Community Support Officers and authorised officers from the Licensing Authority. This footage to be kept for three months
- The Designated Premises Supervisor to ensure that any person working at the premises, whether formally employed or not, is lawfully entitled to work in the UK.
- The Premises Licence is suspended for two weeks.

Any party in objection to the decision may appeal to the Peterborough Magistrates Court within 21 days of receiving this formal notice at:

Peterborough Court House, Bridge Street, Peterborough, PE1 1ED. Tel No. 01223 376000.  
There is a fee to pay.

Councillor Wiggin

Sub-Committee Chairman