



Cherwell District Council Responsible Authority Additional representation with regards to the licence review of:

Jaflong Restaurant, 51 Market Square, Bicester, OX26 6AJ

On 5th February 2020 Jaflong Restaurant was notified that their premises licence had been made subject of a licensing review.

That Licensing review hearing was initially scheduled to take place on 17th March 2020, however, that hearing was adjourned, and due to the Coronavirus pandemic could not be rescheduled until 5th June 2020.

Notifications of the revised hearing date of June were sent out to all parties, and following that notification, on 19th May 2020 the Licensing Authority received an application to transfer the premises Licence belonging to Jaflong restaurant, Bicester.

It should be noted that the application to transfer the premises licence was only received weeks before the Committee hearing.

Jaflong Restaurant, in Bicester, is a long-established family run business in the Cherwell District.

Mr Dilwar Ali has been the Designated Premises Supervisor (DPS) at Jaflong Restaurant since the premises Licence was first issued under the Licensing Act in 2006.

This would suggest that Mr Dilwar had been involved in the running of that licensed premises for many years, and as such, it is important that the application to transfer the premises licence, from Mr Shakur Ali to Mr Dilwar Ali, does not detract from the importance of the illegal activities which had been taking place at the premises.

Under the amended guidance under Section 182 of the Licensing Act 2003, where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective.

It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence.

In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

There are certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously, such activities include employing a person who is unlawfully in the UK, or has conditions preventing lawful employment.

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.

There have been similar cases in the U.K where a licence has been transferred or conditioned immediately prior to a licensing review hearing.

One example of such a case was in 2018, where Peckham Food and Wine had been found to be employing illegal immigrant workers.

Reports stated that a broom cupboard was being used as sleeping quarters for two workers who slept on a filthy mattress with only a small electric fan for ventilation, and they were being paid a salary well below the minimum wage.

A review application was made by Southwark Trading Standards.

Prior to the review hearing, an application to transfer the licence was received by the council and objected to by police.

The transferee was a Mr Safeer Shah who claimed to be untainted by the past behaviour and pledged to turn around the operation. Following questioning it turned out Mr Shah was the estranged husband of the premises licence holder and related to the other directors of the operating company.

The licensing sub-committee refused the transfer and revoked the premises licence.

The Committee's decision was appealed in the court:

On appeal Mr Shah argued that it was wrong to judge him by his family relationships. He was his own "autonomous" individual and had demonstrated his commitment to promote the licensing objectives.

Under cross-examination it became apparent that Mr Shah had been involved in the running of the business prior to the review application. It was also revealed that two of his current employees had worked at the venue when the litany of transgressions had taken place. One was, and continued to be, an illegal worker. On inspection visits prior to the appeal hearing further breaches of the licence had been found and, under Mr Shah's stewardship

The Council also argued, in reliance on Griffiths LJ's observations in R v Knightsbridge Crown Court ex p International Sporting Club (London) Ltd [1982] 1 QB 304, that it risks bringing the licensing regime into disrepute if reckless licence holders can avoid the consequences of their behaviour by simply transferring the licence into someone else's name or selling the business when they got caught and so, effectively, get away with it.

The deterrent effect of licensing enforcement would be lost, and licensing authorities are right to take a robust stance against such transfers, particularly those which appeared to be a ruse.

District Judge Julie Cooper, sitting at Camberwell Green Magistrates' Court, upheld the decision of the London Borough of Southwark to revoke a convenience store's premises licence following allegations of illegal workers being employed in conditions akin to "modern slavery".

In refusing the appeals on 28 June 2018, DJ Cooper awarded the Council its costs of over £11,000.

In summary, acting on behalf of Licensing as a Responsible Authority, based on the information and case examples; I would urge the Committee consider the revocation of this premises licence regardless of any recent premise licence transfer application/s.

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