

ITEM 3(a)



Minutes of the meeting of the LICENSING COMMITTEE held on WEDNESDAY 12 DECEMBER 2018 at 6:33 pm

Present: Councillor Morris (Chair)
Councillors Alexander, Akter, Buckley, Darling, Exon, Geaney, Legg, Miles, Minns, Patey-Smith and Wallis

Officers: K Hulatt (Acting Head of Legal), N Allen (Head of Regulatory Services), J Agar (Senior Practitioner), S Bailey (Strategic Lead Parking and Taxis), S Teesdale (Licensing and Business Manager), K Evans (Senior Enforcement Officer), E Fisher (Senior Practitioner) and T Milner (Committee Manager)

Apologies: Councillors Carr and McDonald

Also Present: 4 members of the public

LC13 MINUTES

RESOLVED -

That the Minutes of the meeting held on 12 September 2018 and the meetings of the Sub-Committees held on 28 August and 28 September be approved and signed by the Chair as correct records.

LC14 DISCLOSURES OF INTEREST

None disclosed.

LC15 DATE OF THE NEXT MEETING

That the next meeting of the Licensing Committee be held on Wednesday 13 March 2019 at 6.30 pm.

THE CHAIR CLOSED THE MEETING AT 6.36 PM

ITEM 3(b)



Minutes of the LICENSING SUB-COMMITTEE held on FRIDAY 14 DECEMBER 2018 at 10.35 am

Present: Councillor Morris (Chair)
Councillors Geaney and Wallis

Officers: Christian Firmin (Solicitor), S Teesdale (Licensing and Business Manager), E Fisher (Senior Practitioner) and D Imbimbo (Committee Manager).

Also Present: Mr Paul Mongane (Applicant) and Mr Mpala Mufwankolo (DPS), Gemma McCormack (Licensing Officer Thames valley Police) and Sergeant K Storey Thames Valley Police

LSC10 SUSPENSION OF COUNCIL RULE 4

RESOLVED -

That Council Procedure Rule 4 'Time and Place of Meetings' be suspended.

LSC11 DECLARATIONS OF INTEREST None were made.

LSC12 APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR UNDER THE LICENSING ACT 2003

The Sub-Committee considered an Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003 in respect of Memling's Restaurant, Church Road, Wolverton. The Licensing Officer presented the report and additional papers and answered questions on the documents.

The Sub-Committee heard that A DPS is a nominated person listed on a premises licence with responsibility for overseeing that a licence is complied with. They are generally in day to day charge of a premise although they do not have to be on site at all times.

Only the police can object to the appointment of a DPS, and the objection must be on crime and disorder grounds. Where the police object the licensing authority can convene a hearing to determine the application to vary a premises licence to specify an individual as a DPS.

The proposed DPS, Mr Mpala Mufwankolo (the DPS), was objected to by Thames Valley Police as not being a suitable person to be appointed DPS for Memling's Restaurant, Church Road, Wolverton as he had been convicted of Offences under the Licensing Act 2003, similar to those which had resulted in a previous revocation of the premises license held by Memling's Restaurant. The Police in their representations stated the following:

- The DPS had previously been the DPS of another establishment namely, the Pride of Tottenham. The licence in relation to that premises was the subject of a review hearing on the 15th September 2016. The review hearing resulted in an investigation that showed breaches of licensing conditions concerning operating hours and CCTV breaches.
- The DPS has been convicted on two counts under section 136(1) of the Licensing Act 2003, concerning the carrying out of licensable activities without authorisation. The offences were committed on the 17th October 2016 and the 21st November 2016.
- The DPS had failed to notify the relevant licensing authority of the above offence contrary to section 132 of the Licensing Act 2003.
- The DPS had failed to notify the relevant licensing authority of his change of address contrary to section 127(1) of the Licensing Act 2003
- In the month that Mr Mpala Mufwankolo had been the DPS of Memling's Restaurant, the Police had visited the premises on two occasions.
- The first was on 7 December into the early hours of 8 December 2018. At approximately 1.10am an individual was seen by Gemma McCormack, Licensing Officer for Thames Valley Police, leaving the premises when it was observed that music was emanating from the premises.
- The second was on the following Tuesday, 11 December 2018. When Mrs McCormack revisited the premises to get the CCTV recordings from the previous Friday. The purpose of this visit was to ascertain from the CCTV whether there had been any licensing breaches, as a condition of the premises licence is that the premises must be clear of customers by midnight. The Licensing Officer reviewed the footage while at the premises and could see that people were in attendance at the premises from midnight to approximately 1.30am. Persons were seen gathered around the bar and drinking liquid from glasses. Flashing lights could also be seen in the footage.

The licensing officer asked for a copy of the CCTV footage and a USB device was provided to the Licensing Officer. When the licensing officer reviewed the footage the next day, that being Wednesday 12th December 2018, she found the USB to be empty.

The DPS and the applicant made the following representations:

- The DPS had been involved in licensable activities since 1991.
- The DPS previously had a clean record and had no trouble with the police until 2016.
- The DPS was commended in the role he played during the London Riots of August 2011.
- During the riots, the police took the DPS' hard drive, used to capture CCTV footage, and this was only returned later. The footage captured from the hard drive was used in the prosecution of many of the Rioters.
- DPS stated that the Pride of Tottenham pub had a licence to hold 600 people, where Memling's Restaurant can only hold 80.
- DPS stated that he did not realise that he was required to notify relevant licensing authority of convictions or change of address. DPS stated that the property in Coventry, where he now resided, had been owned by him for a number of years.
- The DPS produced a Police Disclosure Certificate which did not include the offences, referred to in the submissions of the Police.
- The DPS stated that someone died in one of his previous licensed premises and his licence was unaffected.
- The DPS stated that Memling's Restaurant does not have a late licence; therefore, not comparable to his previous establishments, which did.

Following representations, the Sub-Committee adjourned to consider its decision.

On resuming the meeting the Chair told the Applicant that;

The Licensing Sub-Committee had regard to section 38 of the Licensing Act 2018, and informed the applicant that because the application had been given interim effect during the application period, the application period ends at the time the rejection is notified to the applicant, i.e. with immediate effect.

Having regard to the revised guidance issued under section 182 of the Licensing Act 2003, the Licensing Sub Committee felt that Mr Mufwankolo's convictions, which are considered to be a 'relevant offences' under the Licensing Act 2003 and Mr Mufwankolo previous breaches of licensing hours and breaches of CCTV conditions, when

considered in conjunction with Memling's Restaurant's previous breaches of licensing conditions, for similar reasons, amounted to 'exceptional circumstances' and therefore, the Police objection, was upheld.

The DPS had failed to comply with his duty to inform the relevant licensing authority of his change of address and had additionally failed to comply with his duty to inform the relevant licensing authority of his convictions and this gave concern in respect of Mr Mufwankolo's understanding of the Licensing Act 2003, and his duties, to prevent crime, contained therein'

Furthermore the Licensing Sub-Committee was concerned to hear evidence that unauthorised licensable activity was likely still occurring at Memling's Restaurant while Mr Mufwankolo has been in post as the DPS.

RESOLVED -

That the application be refused as Mr Mufwankolo had convictions for offences under the Licensing Act 2003 of a similar nature to those matters which had previously and recently resulted in the premises licence having been revoked, and taking due regard of all the information considered the sub-committee believed Mr Mufwankolo was not a suitable person to be appointed DPS of Memlins restaurant.

THE CHAIR CLOSED THE MEETING AT 12.35 PM