

Division/Station : Licensing Milton Keynes

From : Gemma McCormack
Licensing Officer

To : Licensing
Milton Keynes Council

Ref : The Don Review

Date : 7th April 2020

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Subject :

Representation

As licensing officer for Thames Valley Police, I am authorised to make representation in relation to applications made under the Licensing Act 2003 on behalf of the Chief Constable as a responsible authority.

In respect of the application by Home Office Immigration Enforcement to review the premises licence at The Don Restaurant, 502 Elder Gate, Central Milton Keynes, I have reviewed the application and wish to submit a representation supporting the Home Office's application under the grounds of that the Licensing Objectives of Prevention of Crime and Disorder has been undermined by the Premises Licence Holder.

Whilst the immigration visit was not carried out jointly with Thames Valley Police, our systems do record that on the 7th December 2019, three males were arrested during the immigration visit and that the completion of this investigation was to be completed by the Home Office Immigration Enforcement, with a status of No Further Action being required by Thames Valley Police.

Ordinarily after the receipt of a review application, I would have engaged with the licensee and carried out a site visit to check compliance with the premises licence, unfortunately due to the restrictions currently in place by the COVID-19 pandemic, this has not been possible to do this during the consultation period.

That being said I cannot overlook the fact that three males were found by Home Office Immigration Enforcement Officers on the 7th December 2019 dressed in chef's whites, preparing and cooking food (working at the premises). These males did not have the right to work due to their immigration status. This is a breach of Section 24(B) of the Immigration Act 1971:

- A person (P) who is subject to immigration control commits an offence if –*
- (a) P works at a time when P is disqualified from working by reason of P's immigration status, and*
 - (b) At that time P knows or has reasonable cause to believe that P is disqualified from working by reason of P's immigration status*

Whilst the Home Office may well have difficulty in proving the males in question were "employed" by the business, (officially on the books, having had employment status checked, being paid minimum wage and employer national insurance contributions being paid), they certainly appear to have been carrying out work within the kitchen and therefore committing an offence. Mr Akikur Rahman (the premises licence holder and designated premises supervisor) has allowed them access to the kitchen to work, and thus he has facilitated this offence and therefore is not proactively promoting the Licensing Objection of Prevention of Crime and Disorder.

Furthermore I have concerns regarding the fact that Mr Rahman, admitted to not having carried out employment checks on staff at the premises indicating that he

has not been carrying out his due diligence as a premises licence holder or an employer. He also informed the Immigration Officers that he was not the owner of the business however he does hold the sole responsibility of the premises licence and has done since 31st July 2015, which demonstrates that he holds a key position within the business and has done so for considerable time. He therefore holds responsibility in ensuring employment checks are carried out.

In relation to this review application, the current Section 182 Guidance of the Licensing Act 2003, issued by the Secretary of State, specifies in Paragraphs 11.27 and 11.28

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:

- *for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;*
- *for the sale and distribution of illegal firearms;*
- *for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;*
- *for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;*
- *for prostitution or the sale of unlawful pornography;*
- *by organised groups of paedophiles to groom children;*
- *as the base for the organisation of criminal activity, particularly by gangs;*
- *for the organisation of racist activity or the promotion of racist attacks;*
- *for employing a person who is disqualified from that work by reason of their immigration status in the UK;*
- *for unlawful gambling; and*
- *for the sale or storage of smuggled tobacco and alcohol.*

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.

In conclusion, we have multiple cases of illegal workers being allowed to work within the premises. In itself the employment of an illegal worker is enough to consider a revocation of this licence and as such this employment constitutes a criminal activity which has serious impacts on society. It can also in certain circumstances have a serious and real implications to modern day slavery.

For these reasons Thames Valley Police supports the review application submitted by the Home Office Enforcement Team and recommends that the Licensing Committee revokes the premises licence as sought by the application to ensure the Licensing Objective of Prevention of Crime and Disorder is not undermined again.

Gemma McCormack
Licensing Officer
Thames Valley Police