

Blackpool Council Licensing Service				
Representation made by a Responsible Authority				
Responsible Authority				
Name of Responsible Authority	Licensing Authority			
Name of Officer <i>(please print)</i>	Mark Marshall			
Signature of Officer				
Contact telephone number	01253-478493			
Date representation made	25	05	2017	
Do you consider mediation to be appropriate			YES	NO
Premises Details				
Premises Name	Al Amir			
Address	37-39 Talbot Road			
	Blackpool			
Post Code				
Details of your representation (Please refer and attach any supporting documentation)				
<p>I have concerns with this application given the very recent history which disclosed evidence that undermined the Crime Prevention Objective.</p> <p>Suspected illegal workers fled the premises on the 24th November 2016 along with multiple breaches of the premises licence.</p> <p>Licence revoked at the subsequent hearing , copy the decision notice found below;</p>				

Mr M Woosnam
Roland Robinsons & Fentons
85-89 Adelaide Street
Blackpool
FY1 4LX

The Blackpool Council being the licensing authority on the 8th December 2016 received an application from health and safety to review the premises licence issued in respect of Al Amir, 37-39 Talbot Road Blackpool. The panel at a hearing on 1st February 2017 determined to revoke the licence.

Reasons

The panel have considered an application by health & safety to review the premises licence issued in respect of Al Amir. This review was submitted following a joint visit between licensing enforcement, the Police and Immigration Enforcement. The facts of the visit are documented in the review application, police representation and supporting evidence.

At the hearing Mr Marshall, on behalf of health & safety, explained to the panel that this review had been brought in the unusual situation where the cause for concern was so wide-ranging that the licence should be considered by the panel without first engaging with the licence holder. The panel's attention was directed to a number of concerns namely the employment of someone who did not have the right to work in the UK, failing to ensure health & safety certification was up to date and failure to comply with licence conditions, namely the CCTV.

This joint operation with Immigration Enforcement had resulted in visits to a number of premises. On entering Al Amir, and after introducing themselves the man who appeared to be in charge of the restaurant suddenly ran out of the front door nearly getting knocked over in his rush to get away. This left only one member of staff, the chef, at the restaurant meaning that the officers had to remain in situ to look after front of house whilst they waited for the DPS to arrive. When Mr Rashid the DPS arrived he could only tell them that the man was called Umer, he had no employment records for him, did not know his surname and could only provide officers with two mobile telephone numbers.

Mr Marshall did accept that this premises had not come to his attention before either directly or indirectly. He also accepted that Mr & Mrs Rashid had held licences in Blackpool for ten years.

Sgt Parkinson spoke in support of the review application. She expressed concern that when the man left he had left the till and a fully stocked bar essentially unsupervised and if they hadn't been there the customers would have been able to help themselves. She confirmed a conversation with Mr Rashid where he acknowledged that there was only one CCTV camera which did not record.

Mr Woosnam representing the licence holder confirmed that when Mr & Mrs Rashid took over the restaurant in 2011 there was already installed a modest CCTV system which did not record, this was mainly used for monitoring people entering and exiting the premises. Mr Woosnam indicated that as they had never had any contact with the Police or licensing enforcement the situation with the CCTV had drifted, but they now understand that they need to abide by conditions. The panel were also told that the certification for the fire extinguishers was now up to date.

Dealing with the member of staff who had run off, Mr Woosnam indicated that Mr Rashid had known Umer for about seven years as he was a friend of the previous chef. This previous chef had told Mr Rashid that Umer suffered from mental health issues and had previously been sectioned under the Mental Health Act. Mr Rashid was satisfied that Umer had the right to work in the UK because he had been shown a card with his national

insurance number on. Umer helped out when the restaurant was short staffed and he was paid cash in hand.

Mr Woosnam invited the panel to consider adding two conditions to the licence:

1. Documentary proof of an employee's identity and right to work should be kept on the premises and be available for inspection at all times; and
2. No less than two members of staff should be working when the premises are open.

Mr Rashid confirmed that he had never had any concerns about Umer's mental health, and although he thought that he lived locally, he did not actually know where he lived. When asked how much Umer was paid an hour, Mr Rashid replied after some thought £5.00, although he was aware that the minimum wage was £7.25 an hour.

The panel when reaching their decision were concerned about the catalogue of failures, not making proper right to work checks, paying cash in hand below the minimum wage, failure to make health & safety checks and failure to comply with licence conditions. Of particular concern is the employment on cash in hand basis of a person with mental health difficulties at a rate substantially below the minimum rate. Even if he was provided with food this could be viewed as a form of exploitation.

The view of the panel was that this business has been trading irresponsibly the result of which was officers been left effectively in charge of premises for a period of 30minutes. The panel were further concerned by Mr Rashid's answers to questions which they believed were somewhat vague.

Furthermore the panel did not believe that adding a condition requiring two members of staff would be appropriate as this reflected the current state of affairs.

In reaching their decision the panel had regard to the Secretary of States Guidance, in particular Paragraph 11.20 which states;

In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigate the review.

Paragraph 11.23 which states;

Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

Paragraph 11.27 which lists certain activity that should be treated particularly seriously including knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter.

It was the panel's view that the causes for concern were very serious and wide-ranging. Whilst the defects concerning the CCTV and fire extinguishers had been dealt with, this had only happened because the review had been submitted. The Rashid's had knowingly employed someone on a "cash in hand" basis paying below the minimum wage which should not happen and without doing the required right to work checks – it is impossible for them to be confident that he had the right to work when they did not even know his surname.

The panel as detailed above were of the opinion that the premises had been trading irresponsibly in the past and were not satisfied, by the answers provided at the hearing that they would trade in a responsible manner in the future. For these reasons the panel were of the opinion that the appropriate action for them to take was to revoke the licence.

The decision will come into effect in 21 days unless notice of appeal is served within that time.

Date: 1st February 2017

Signed.....

Head of Licensing Services

Please address any communications to:

Licensing Service, Municipal Buildings, PO Box 4, Blackpool FY1 1NA

Note: An appeal against this decision may be made by the applicant/the Chief Officer of Police as applicable (See Schedule 5 of the Act) to the magistrates' court for the petty sessions area (or any such area) in which the licensing authority's area or part of it is situated within 21 days from the date of receipt of the notification of the decision.

The matter is being appealed and due to be heard on the 26th June so there is still a clear propriety interest from the current licence holder.

Current licence holder has a 15 year lease with an ability to reassign with the consent of the Landlord but the applicant is the solicitor who drew up the original lease in 2011 but at this stage the current licence holder still holds the lease and therefore will continue to have a propriety interest in the premises.

Our concern is primarily that the current licence holder Mrs Rashid or the DPS Mr Rashid will still have day to day control of the premises and given the recent issues disclosed we believe that the crime prevention objective will be undermined.

The operating schedule is deficient with regards to any explanations on how the new licence holder will be intending to distance himself from the current licence holder who is also the lease holder.

We would be agreeable to mediate on this application if the applicant was to consider the following condition.

Mrs Shanaz Rashid or Mr Muhammad Rashid shall not be permitted to have any involvement with the running of the business and shall not attend the premises during licensable hours.

For New / Variation Applications only.

It is recommended that the licence should only be granted if the application is amended, or if conditions are applied, as detailed below.