

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 8 AUGUST 2017

LICENSING ACT 2003: BRIDGE WALK FOOD AND WINE – 3 LONDON BRIDGE WALK, LONDON, SE1 2SX

1. Decision

That the application made by Bhaskaran Sivakumar for a premises licence to be granted under the Licensing Act 2003 in respect of the premises known as Bridge Walk Food and Wine – 3 London Bridge Walk, London, SE1 2SX be refused.

2. Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the representative for the applicant who advised that there had previously been a premises licence issued in 2011, but the company name that the premises licence was in, namely, Bridge Walk Food and Wine Limited dissolved in 2012. No one informed the licensing authority and the business had since been transferred to different owners on two occasions, firstly in 2013 and again, in October 2016 to the applicant. When the applicant bought the business in 2016, his solicitors failed to advise him of the need to transfer the premises licence. For this, there was a negligence claim being pursued by the applicant against his then solicitors. The representative advised that the applicant was not culpable of events pre-October 2016.

Because the licensing authority had not issued the licence renewal letter to the current owners, the applicant only became aware of the lack of licence when trading standards inspected the premises in March 2017. As soon as the applicant became aware there was no premises licence in place, he stopped selling alcohol with the exception of applying for three temporary event notices ("TENs"). The business was wholly dependent on the sale of alcohol and he had incurred considerable loss because of the lack of licence.

Since October 2016 the applicant had used his best endeavours. He made two of the three staff members redundant and inherited a single member of staff, but was not aware that the member of staff was an illegal worker. As of March 2017, the applicant was taking active steps in vetting his employees.

The licensing sub-committee heard from the trading standards officer who advised that because the premise is situated within the Borough and Bankside cumulative impact zone there is a presumption to refuse the licence, unless the licensing authority is satisfied the premises will not have an adverse effect on the licensing objectives. They advised the sub-committee that they could not be satisfied that this would be the case, nor could it be confident with the overall management of the premises.

Trading standards visited the premises twice in April 2017 firstly, in response a complaint that tobacco was being offered for sale and on display contrary to The Tobacco Advertising and Promotion Display (England) Regulations 2010, which resulted in them being issued with advice and a warning. It was on this occasion that it transpired that the premises had been operating without a licence since July 2012 and notwithstanding the applicant neither attempted to transfer the licence, or apply for a premises licence in his own name. This is a basic, yet serious criminal offence under the Act. A visit on 19 April 2017 by trading standards and the police found alcohol not being sold without a licence, but the member of staff present and who had previously sold alcohol, not only did not have a personal licence (a condition on the 2011 premises licence), but also the member of staff and only person working in the shop, was an illegal worker who was wanted by the UK Border Force because he was an absconder and overstayer. He was subsequently arrested.

The licensing sub-committee heard from the Metropolitan Police Service who objected to the grant of a stating that it would be prejudicial to the prevention of illegal working and immigration crime and also referred to the 19 April 2017 visit to the premises.

The licensing sub-committee noted the representation from the public health authority which had been withdrawn after conciliating that no beers, lagers, ciders or similar alcohols to be sold in cans with an Alcohol By Volume (ABV) in excess of 6.5% or in bottles larger than 750ml with an ABV in excess of 6.5% and the premises closed at 23:00 hours, which the applicant agreed to.

This licensing sub-committee are astounded that these premises has operated without a licence for just short of five years and find it quite unbelievable that the applicant assumed that the premises licence simply transferred into his name, without application, signature or receipt of a new licence. Whilst the applicant is not accountable for the lack of licence for the period from 2012 to October 2016, the premises licence that was displayed in the premises clearly states the name of the designated premises supervisor, and this does not specify the applicant. These very simple checks would have been explained during the personal licence course, which the applicant stated he attended approximately one to one and a half years ago.

The applicant has also demonstrated no due diligence in the management of the business. The applicant allowed alcohol to be sold without a premises licence being in place, but if he had read the 2011 premises licence, which the applicant claimed he relied on read:

“100. No supply of alcohol may be made under the Premises Licence –

- a. At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
- b. At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.

101. Every supply of alcohol under the Premises Licence must be made, or authorised by, a person who holds a Personal Licence”.

The member of staff was not a DPS, nor a personal licence holder. He was however, an illegal worker. When questioned about this, the applicant stated he *‘didn’t know’* this as he had been employed by the previous owner. Further questions were asked about the employee during which it emerged that he had no employment contract but worked 15 hours per week, was not paid the minimum wage, did not receive a payslip, paid in cash and was not registered PAYE or for national insurance. This, the sub-committee found was unacceptable, and further evidence of the applicant’s poor management of the premises.

The licensing sub-committee were directed to the case East Lindsay District Council –v- Hanif (trading as Zara’s Restaurant and Takeaway) [2016] EWCH 1265 (Admin) where the sub-committee were satisfied that when the premises licence holder did not take the appropriate checks of staff members with immigration issues and allowed staff to continue without making those appropriate checks, this was a justification to revoke a premises licence. The same must be true in respect of issuing a premises licence.

Finally, the Section.182 Licensing Act 2003 guidance (issued April 2017) paragraph 8.40 provides that where a cumulative impact policy applies in an area, and in this case, Borough and Bankside applicants are expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy and expected to include positive proposals in their application on how they will manage any potential risks. This, the applicant failed to do in either the application, or his oral presentation.

It is for these reasons, this licensing sub-committee refused this premises licence.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate.

3. Appeal rights

The applicant may appeal against any decision:

- a) To impose conditions on the licence.
- b) To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that:

- a) The licence ought not to be been granted; or
- b) That on granting the licence, the licensing authority ought to have imposed different or additional conditions to the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

Issued by the Constitutional Team on behalf of the Director of Law and Democracy.

Date: 8 August 2017

Mark Orton
Licensing Enforcement Officer
Licensing Team
Regulatory Services

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Tel: 02075254236

Date: 30 March 2017

Ref: [Click here to enter reference.](#)

██████████
Bridge Walk Food & Wine
3 London Bridge Walk
SE1 2SX

BY HAND

Dear ██████████

**LICENSING ACT 2003: LAPSE OF PREMISES LICENCE
BRIDGE WALK FOOD & WINE LIMITED, 3 LONDON BRIDGE WALK, SE1 2SX**

Dear Sir,

Please note that the premises licence for Bridge Walk Food & Wine Limited, 3 London Bridge Walk, SE1 2SX has lapsed as of 24 July 2012 due to the company holding the licence being dissolved.

Following my visit to your premises of 29 March 2017 at 17:00hrs and my advice to you, being as you stated that you were the person in charge with the title of manager, that no alcohol should be on display and that no sale of alcohol to the public should take place. I also advised that you should contact the licensing team to apply for a premises licence if you wish to sell alcohol for consumption off the premises, as you have been doing in the past.

YOU SHOULD ENSURE THAT NO LICENSABLE ACTIVITIES TAKE PLACE AT THE PREMISES WITHOUT THE CORRECT AUTHORISATION. THIS MEANS THAT NO SALE OF ALCOHOL CAN TAKE PLACE.

To do so would be a criminal offence as there is no authorisation under the Licensing Act 2003 at this premises. A person found guilty of an offence under S136(1)(a) is liable on summary conviction to imprisonment for a term not exceeding 6 months or to an unlimited fine.

If you need any clarification of this letter, do not hesitate to contact this office for assistance.

Regards

Mark Orton

Mark Orton
Licensing Enforcement Officer

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