

LICENSING COMMITTEE HEARING

THURSDAY, 9 MARCH 2023 - 11.00 AM



PRESENT: Councillor M Humphrey (Chairman), Councillor A Maul and Councillor A Miscandlon, Councillor Mrs K Mayor (Substitute)

OFFICERS IN ATTENDANCE: Colin Miles (Legal Representative), Michelle Bishop (Licensing Manager) and Linda Albon (Member Services & Governance Officer)

LH5/22 **DETERMINATION OF AN APPLICATION FOR THE REVIEW OF A PREMISES LICENCE MADE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - PERA PALACE, CHATTERIS**

Members considered an application for a review of a premises licence made under the provisions of the Licensing Act 2003 in respect of the Pera Palace, Chatteris.

The Chairman introduced the Panel and Officers. Others present were:

Mr Hasan Ates, Premises Licence Holder
Mr Ali Alvik, Owner of Pera Palace
Mr Paul Phillips, Home Office Immigration Officer

Michelle Bishop presented the report to the panel, who raised no questions.

Councillor Humphrey invited Paul Phillips to give his review following which he asked Mr Ates if he had any questions, but he had none at this point.

Councillor Humphrey invited Mr Ates to present his case.

Mr Ates said he made an appeal against the decision to immigration on 6th February but is still waiting for a response. He stated there are no illegal workers at the Pera Palace. The company has been running since 2019, he admitted the paperwork had been missing some details and lessons have been learned. Everything is now on file at the restaurant with all paperwork up to date, and he would like to apologise on behalf of the company, Hubus Ltd, for paperwork not having been up to date previously. Regarding the allegations, he denied that the restaurant had ever employed illegal workers. He stressed that the Pera Palace is an iconic restaurant, well known throughout Cambridgeshire and popular for its dishes and service with 5-star reviews. There has never been a licensing issue since opening, they have never served alcohol to the underage and have always abided by the rules regarding licensing times and followed all health and safety rules. Mr Ates said that if action is taken against the Pera Palace today, this will punish the public. If improvements are required, they will make them, the Pera Palace is a family run business with a good public image, and he asked that the Panel consider these points when making their decision.

Councillor Humphrey asked Paul Phillips how convinced were the Home Office that the workers were working illegally which led to the review. Paul Phillips responded that it was clear from the statements within the report that the three people named were subject to immigration control. One was an asylum seeker, and one only had the right to work in the plumbing industry and knew he should not have been working in the restaurant. All three staff were one hundred percent working

illegally.

Councillor Humphrey asked Paul Phillips if he had any questions to ask of Mr Ates. Paul Phillips had no questions.

Councillor Humphrey invited the Panel to ask questions:

1. Councillor Maul said an appeal had been made on 6th February and he asked Mr Ates if he had evidence of that. Mr Ates said yes, it was forwarded from their solicitors, but no acknowledgement has yet been received from immigration.
2. Councillor Miscandlon asked if Mr Ates was satisfied the appeal had been made in the correct format. Mr Ates stated yes. Councillor Miscandlon said he is not an expert in this field, but one would assume there is a procedure to fulfil when making an appeal and the time limit in which it should be done, and he asked Mr Ates if his solicitor had advised him of this. Mr Ates replied that he only knows the appeal has been made and is waiting to hear from immigration.
3. Councillor Miscandlon asked what the appeal is for. Mr Ates said it was against the decision of the fine. Councillor Miscandlon said, so it is not against the wrongdoing found by the Home Office? Mr Ates responded that the solicitor was getting the fine out of the way first, then he would be dealing with the allegations of illegal workers. Councillor Miscandlon said he is not here to argue against that advice, but the fine has no bearing on that, the Pera Palace are before the Panel today regarding the breach of licence.
4. Councillor Miscandlon said that Mr Ates had agreed that employee paperwork was not up to date but now he is saying he has conducted a review in relation to the right to work. He asked how he did that. Mr Ates replied that there is now a file for each worker. If they are not a British citizen, they are asked for a copy of their work permit given by the Home Office. A copy is put in the file with a copy of the staff member's passport, and other personal details.
5. Councillor Humphrey said that although Mr Ates has referred to 2019, the review is against him as licence holder, but he has only been so since 2022. The Panel are concerned about his behaviour as licence holder, not the restaurant and the fact that it has a 5-star review and good food hygiene rating is irrelevant in this determination.
6. Councillor Miscandlon said that Mr Ates stated he does the checks now, but what did he do before? It is clear from the Home Office statement that these staff were working illegally and from their behaviour when officials visited that they knew this. Mr Ates responded that he was not in charge then, neither did he have the power to hire staff, this was done by the business owner Mr Alvik. They were guided afterwards by the Home Office and he has since taken over the hiring of staff.
7. Councillor Miscandlon said that as Mr Ates is the premises license holder he should be aware of the staff being hired and the licensing objective to prevent criminal activity was breached, this does include employing someone disqualified by their immigration status. Mr Ates said he realised that mistake but as he had no shares in the business, he was limited to what he could do.

Councillor Humphrey asked Paul Phillips if he had anything to add, which he did not.

Councillor Humphrey invited Mr Ates to sum up his case.

Mr Ates said that mistakes had been made but they are always ready to learn. In terms of the paperwork, he accepted fault but asked that the Panel consider all that had been said previously. Both he and Mr Avlik were very sorry and were upset with the publicity that had been caused and were now doing everything as well as they could and reiterated that the Panel please consider this when making their decision.

Councillor Miscandlon asked Mr Ates how long he had been working for the company. Mr Ates responded since September 2022. He moved to the area from London last July but has been working for the Pera Palace since 2019. He repeated that it is a family business, Mr Avlik is his

brother-in-law.

The panel adjourned at 11.31am for deliberation and reconvened at 12.07pm.

Councillor Humphrey thanked everyone for their patience and read the following decision notice:

The Licensing Sub Committee is convened today to hear an application to review the premises licence of Pera Palace Restaurant, Chatteris, for breach of the licensing objective relating to the prevention of crime and disorder.

The review application was submitted by Home Office Immigration Enforcement following a visit to the premises in November 2022.

The Premises Licence Holder and Designated Premises Supervisor in November 2022 was Hasan Ates and had been so since September 2022. The business operator is Hupus Limited, but the company is not the premises licence holder.

During the visit in November 2022, three Turkish nationals were found to be working in the restaurant who were not legally entitled to work in the UK, therefore were illegal migrant workers. No evidence has been put before us today to say this position is incorrect.

We have read the committee papers put before us containing the Licensing Officer's report; the review application and supporting information; and the current premises licence.

We have heard today from:

**Paul Phillips – Home Office Immigration Enforcement, and
Hasan Ates – Premises Licence Holder and Designated Premises Supervisor.**

Mr Ates tells us that his solicitor has appealed against the fine of £45,000 and depending on that decision will appeal against the three individuals being termed as illegal workers. Mr Phillips tells us he is unaware of an appeal, following checking his systems yesterday.

This Committee cannot go behind the decision of the Home Office officers and we have to accept the facts before us, in the absence of any contrary evidence.

In our deliberations we have been referred to:

- **Fenland District Council's Statement of Licensing Policy**
- **The Government Guidance issued under section 182 of the Licensing Act 2003**
- **Licensing Act 2003 and the**
- **Immigration Act 2016**

Section 36 and Schedule 4 of the Immigration Act 2016 amends the Licensing Act 2003, by introducing "due diligence" for employers when employing workers, or in other words, "right to work checks". Employers must ensure that prospective employees are entitled to work in the UK.

Also, it makes it a criminal offence to employ workers who are not legally entitled to work in the UK.

Illegal workers generally do not pay income tax or national insurance. They are generally not entitled to paid holidays and other statutory employment benefits; and are often forced or coerced into modern slavery.

Employers who employ illegal workers are often driven by profit.

The Statutory Government Guidance states at Paragraph 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, amongst other things:

- for employing a person who is disqualified from that work by reason of their immigration status in the UK.**

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.

It is the function of the Licensing Sub Committee to take steps with a view to the promotion of the licensing objectives and in this instance, the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.

We say that employing illegal migrant workers is in breach of the provisions of the Licensing Act and continuing with their employment up to November 2022 is furthering crime. It is apparent that the right to work checks were not conducted or were not conducted properly.

The options available to us today are:

- to modify the conditions of the premises licence**
- to exclude a licensable activity from the scope of the licence**
- to remove the designated premises supervisor**
- to suspend the licence for a period not exceeding three months; or**
- to revoke the licence.**

We take a serious view of employing three illegal migrant workers, for the reasons stated above. We have considered revoking the licence; suspending the licence or removing the designated premises supervisor but our decision this morning In order to promote the licensing objective in question, we believe it is necessary to:

Revoke the licence in its entirety.

If any person is aggrieved with this decision, they have 21 days from today to appeal to the Magistrates' Court sitting in Peterborough. There is usually a fee for this.

The Chairman thanked everyone for their presence this morning and declared the Hearing closed.

12.13 pm

Chairman