

## **LICENSING SUB-COMMITTEE**

**Thursday 14<sup>th</sup> July, 2016 at 10.30am**

**In a Conference Room at the Council House, Walsall**

### **Present:**

Councillor Rochelle (Chairman)  
Councillor Sarohi  
Councillor Sears

### **In attendance:**

Ms H Powell- Senior Licensing Officer- Walsall MBC  
Mr D Patouchas- Legal Services- Walsall MBC  
P.C. Neil Gardner- West Midlands Police  
Kelvin Moore- Immigration Officer  
Mrs S Tehrani- Premises Licence Holder  
Mr Davood Maroofi- Spouse of Mrs Tehrani and Supervisor at Pizza Nizza

### **Appointment of Chairman**

### **Resolved**

That Councillor Rochelle be appointed Chairman of this Sub-Committee for this meeting only.

**Councillor Rochelle in the chair**

### **Welcome**

The Chairman extended a welcome to all persons present at the Sub-Committee which had been established under the Licensing Act, 2003 and everyone introduced themselves.

### **Apology**

An apology for non-attendance was submitted on behalf of Councillor C. Bott.

### **Declarations of Interest**

There were no declarations of interest.

The Chairman inquired if all parties had received a copy of the documents for the hearing. This was confirmed.

**1289/16      Licensing Hearing**

Application for a premises licence review under Section 51 of the Licensing Act, 2003 in relation to Pizza Nizza, 36-38 Bridge Street, Walsall, WS1 1JG

The report of the Director of Public Health was submitted:-

(see annexed)

The Senior Licensing Officer (Ms Powell) enlarged upon the report for the benefit of the Sub-Committee and indicated that the application for a premises licence review in respect of Pizza Nizza, 36-38 Bridge Street, Walsall, WS1 1JG had been made under Section 51 of the Licensing Act, 2003. The application had been made by the Chief Officer of West Midlands Police, a responsible authority under the terms of the Licensing Act, 2003. The Licensing Sub-Committee was requested to determine the review application and take any necessary steps to promote the licensing objectives at these premises. The current premises licence which included the operating schedule and premises plan was included in the report (appendix 1) and the premises licence holder was Mrs Samiramis Tehrani (effective from 19<sup>th</sup> April 2016). A street map showing the location of the premises was given as appendix 2 to the report.

Ms Powell advised the meeting that the Chief Constable of West Midlands Police had requested a premises licence review on the grounds that the premises licence holder was not promoting the statutory licensing objectives of the prevention of crime and disorder and public safety. The initial premises licence review application containing summary detail was received by the licensing authority on 19<sup>th</sup> May, 2016 (appendix 3 refers). In accordance with prescribed regulation officers had arranged for a premises licence review notice to be displayed for 28 consecutive days at the premises, on the Council's website and at the Council Offices. The period for further representations to be submitted from other responsible authorities and 'other persons' closed on 16<sup>th</sup> June, 2016. No further representations had been received from any other responsible authorities or other persons.

Ms Powell then drew the Sub-Committee's attention to paragraph 4.2 of the report which contained the legal position.

Ms Powell drew attention to additional disclosures from West Midlands Police which had been circulated to all parties prior to the meeting:-

(see annexed)

There were no questions to Ms Powell from the parties.

The West Midlands Police representative (P.C Gardner) was invited to present his case and informed the meeting that West Midlands Police together with Immigration Officers believed that Pizza Nizza, a late night hot food establishment, was employing illegal immigrants as a source of cheap labour. On 1<sup>st</sup> April, 2016 West Midlands Police and Immigration Officers had conducted several compliance visits on premises as part of an operation to target suspected illegal working on licensed premises. At 2230 hours on 1<sup>st</sup> April, 2016 officers visited Pizza Nizza, a hot food establishment with opening hours from 12 noon until 5am every day. Entry into Pizza Nizza, from Bridge Street, afforded visibility into the kitchen area where food preparation takes place and officers saw three staff members working in that area. Mr Maroofi was working behind the service area and till and identified himself to officers as the Supervisor.

Officers spoke to Mr Maroofi who was serving at the front counter, and he asked officers to wait for a few minutes whilst he attended to other matters. Officers agreed to this request and when they finally spoke to Mr Maroofi it was noticed that the kitchen had cleared of staff with only Mr Maroofi and a colleague remaining. Officers formed the opinion that the staff in the kitchen had exited through the fire exit at the rear of the premises. A further compliance visit was carried out on 11<sup>th</sup> May, 2016 and officers saw Mr Maroofi and Mr Azimi behind the counter. Mr Azimi was putting pizzas into cardboard boxes and then into their travel bags for delivery. Officers also saw Mr Azimi washing cutlery and machinery, collecting vegetables from the fridge and chopping them. He had full access to the shop and wore the uniform with "just eat" as a badge logo and "dinner's in the bag" on the back of the red t-shirt. Officers concluded that Mr Azimi was working in the shop. Immigration Officers conducted the necessary checks and confirmed that Mr Azimi was an illegal immigrant, and a failed Asylum Seeker, having entered the UK illegally. He did not have permission to work here.

Mr Maroofi was served with a Civil Penalty Referral Notice and Mr Azimi was instructed to attend Sanford House Solihull at 12 noon on 18<sup>th</sup> May, 2016 and was escorted from the premises.

P. C Gardner then read the witness statements of Kelvin Moore, an Immigration Officer, and the legal representative (Mr Patouchas) asked if Mr Maroofi was the Supervisor in charge on 11<sup>th</sup> May, 2016 and was the husband of the premises licence holder, Mrs Tehrani. P.C. Gardner replied yes.

P.C Gardner then read the witness statement of Ross Tunnicliffe and Julie Whiting to the panel and answered questions submitted by those present.

Mr Patouchas referred to the photographs including in the West Midlands Police disclosure bundle and P C Gardner confirmed that they showed Mr Azimi in his uniform at Pizza Nizza.

P. C Gardner indicated that West Midlands Police would be seeking to have the premises licence revoked as illegal workers had been found on the property. He stated that employing illegal immigrants was a criminal offence and the licensing authority could remove the licence from premises where illegal employees were found. He continued that Mr Azimi had entered the country illegally and could have suffered as a trafficked person. He added that as an illegal employee Mr Azimi could be threatened with being handed over to the authorities: had no medical care, employment rights or contact of employment, would be paid below the minimum wage, working excessive hours with no holidays or proper training and could be subject to violence and threats.

P. C Gardner asked why Mr Azimi a failed Asylum Seeker, was working at Pizza Nizza for no wages because Mr Maroofi had denied employing him and no checks had been made as to Mr Azimi's work status.

P. C Gardner stated that he had passed by the premises on a number of occasions between 1<sup>st</sup> April, 2016 and 11<sup>th</sup> May, 2016 and had observed Mr Azimi working as a member of staff. He added that Mr Azimi might have been paid cash in hand thus defrauding HMRC of tax and PAYE.

P. C Gardner indicated that using illegal workers gave the premises an unfair advantage over their rivals. As Mrs Tehrani employed casual labour, who had not been properly trained, there was a perceived hygiene problem and consequent risk to the public. In fact Pizza Nizza had been ordered to close in May, 2016 by Health Officials when mouse droppings were discovered at the premises.

There were no questions to P. C Gardner from the parties.

Mr Patouchas asked if Mr Moore wished to add any further information. Mr Moore stated that a questionnaire had been left at the premises which included links to Home Office guidance on how to check that employees were legally entitled to work in this country to assist Mrs Tehrani. This information had been supplied five weeks before the re-visit on 11<sup>th</sup> May, 2016 but did not appear to have been used. Mr Moore added that Mr Azimi was an illegal immigrant but because he had appealed his case, he could not be deported and was not allowed to work. He had been placed in a national Asylum Seeker's house: his rent was paid and he was given an allowance so that he did not need to work until his case had been resolved.

Mrs Tehrani was invited to present her case and apologised that her English was not good. She referred to the hygiene problem at Pizza

Nizza which had arisen under the previous owner Mr Salamati. She indicated that on 1<sup>st</sup> April, 2016 she and her husband had visited the premises to consider purchasing it but it did not belong to her at that time. The purchase was completed and she became the premises licence holder on 19<sup>th</sup> April, 2016. She stated that because of newspaper coverage of the premises closure by Environmental Health Officers, once re-opened business had been slow. On 1<sup>st</sup> April, 2016 Mr Azimi had taken the place of Mr Salamati for a couple of hours as he had a prior appointment and had worked without payment. Mr Azimi had worked with her husband Mr Maroofi.

Mrs Tehrani then produced a notice from the Immigration Service which stated that the service had decided to take no action against her for employing Mr Azimi, an illegal immigrant.

Mr Moore stated that despite the Civil Penalty Team deciding not to impose a penalty on Mrs Tehrani it did not disguise the fact that Mr Azimi had been working there illegally. He added if the Civil Penalty Team found a business guilty then a fine of £20,000 was payable. This was a considerable sum for a small business so a warning was normally issued in the first instance.

Mr Maroofi informed the meeting that Mr Azimi's appeal had now been heard and he had been given leave to remain in this country for several years. Mr Moore indicated that Mr Azimi's case would be reviewed in two years' time and he might be returned to Iran then.

Mr Patouchas asked if Mr Azimi had been given permission to work. Mr Moore confirmed that permission had been granted for Mr Azimi to work.

Mr Patouchas asked Mrs Tehrani if Mr Maroofi dealt with the day to day running of the business to which Mrs Tehrani replied yes.

Mr Patouchas asked if the business had re-opened. Mrs Tehrani replied that it had opened under a new name with new equipment as they were trying to distance themselves from the previous owner and his poor hygiene record. She reiterated the fact that Mr Azimi did not work there.

Mr Moore informed the meeting that when the compliance visit was undertaken on 1<sup>st</sup> April, 2016 the premise licence was not on display and Mr Maroofi was asked to ensure that this omission was rectified. He stated that at the time three people were working in the kitchen area at the back of the shop unit. When the questioning of Mr Maroofi had been completed, the three individuals had left the premises via a rear exit. He added that, in his opinion, Mr Maroofi was in charge of the premises at that time. Mr Maroofi denied that he was in charge of the premises on 1<sup>st</sup> April, 2016 stating that he was still considering purchasing the property at that time.

P. C Gardner referred to the letter dated 6<sup>th</sup> July from West Midlands Police requesting PAYE records and staff records for Pizza Nizza. Mrs Tehrani supplied information to P. C Gardner. He indicated that there was no reference to staff being present on the documentation. Mrs Tehrani replied that only she, her husband (Mr Maroofi) and Mr Salamati were currently employed at the premises.

P. C Gardner asked if Mrs Tehrani employed casual labour. Mrs Tehrani replied that she did. Mr Maroofi stated that they had trained a young English girl who currently worked 20 hours per week.

P. C Gardner asked how much she was paid and Mr Maroofi replied £7.20 per hour.

P. C Gardner asked Mrs Tehrani if she had met Mr Azimi before. Mrs Tehrani replied that she had not. She added that if he applied for a job then she would be happy to employ him as he was now legally entitled to work in the United Kingdom.

P. C Gardner referred to the fact that Mr Azimi was working at the premises on 11<sup>th</sup> May, 2016 although he had not received hygiene training. Mrs Tehrani replied that she had not been at the premises on 11<sup>th</sup> May, 2016 because her son was ill and she was looking after him. She therefore did not know that Mr Azimi was working there.

Mrs Tehrani informed the meeting that although the opening hours for the premises were 12 noon to 5am daily they would only stay open to 3am on quiet days. On busy days, her brother would help them out but he was not paid for this work. She added that business was slow at present with few customers so no additional staff were required. She added that they had joined the "just eat" organisation and hoped to grow the business in the future.

Mr Patouchas asked when Mrs Tehrani had taken over the business. She replied on 14<sup>th</sup> April, 2016. Prior to that her husband had been looking over the premises with an option to purchase. She had not visited the shop before 14<sup>th</sup> April and she had relied upon her husband to view the premises.

Mr Patouchas asked who actually ran the business. Mrs Tehrani replied that she did.

Mr Patouchas referred to the 11<sup>th</sup> May, 2016 and asked for confirmation that Mrs Tehrani was not at the premises on that date because her son was ill and therefore she had no involvement in the staffing arrangements. Mrs Tehrani confirmed that this was correct.

Mr Patouchas asked what her role was. Mrs Tehrani replied that she ran the premises. However, she did get her husband to take charge when her child was unwell. Mr Patouchas asked how often Mr Maroofi was in charge. Mrs Tehrani replied that she worked from Wednesday-

Saturday and occasionally on Sunday, Mr Maroofi or Mr Salamati covered some Sundays, Monday and Tuesday.

Mr Patouchas asked if staff were checked now for employment compliance. Mr Maroofi replied that he obtained most of his staff through the National Asylum Seeker's Association and made sure that they had a National Insurance Number before he employed them. He added that he sometimes got people coming into the shop asking for work but he was very wary of employing them now without checking them thoroughly first.

Mr Moore reminded Mr Maroofi that he needed to check employees with the Home Office to ensure they were not illegal immigrants.

Both parties were invited to sum up and PC Gardner reiterated the fact that Pizza Nizza employed casual workers. He added that Mr Maroofi had been present and appeared to be in charge on 1<sup>st</sup> April, 2016 and 11<sup>th</sup> May, 2016 when compliance visits were carried out. Mr Moore indicated that if the premises were open from 12 noon to 5am daily, then an additional 4-5 staff would be needed to cover shifts. He added that it would be impossible for one person to man the premises on a Saturday. Mrs Tehrani replied that there were always a minimum of two staff on duty on Saturdays as it was their busiest day.

Mrs Tehrani indicated that she had nothing further to add.

Councillor Rochelle asked if all parties were satisfied that they had had an ample opportunity to air their views. This was confirmed then both parties withdrew from the meeting at 11.50am.

The Licensing Sub-Committee considered carefully all evidence submitted and the representations made during the hearing and it was

### **Resolved**

That the premises licence relating to Pizza Nizza, 36-38 Bridge Street, Walsall, WS1 1JG be revoked.

Both parties were re-admitted to the meeting at 12.45pm and informed of the Sub-Committee's decision.

The parties were advised of their right of appeal to the local Magistrates Court within 21 days of the receipt of the determination letter.

### **Termination of meeting**

The meeting terminated at 12.50pm.

Chairman.....

Date.....