



Date: 14th September 2015

Your Ref:

Our Ref: J/LIC/3705/HB

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Dear Madam

**LICENSING (SCOTLAND) ACT 2005
PREMISES LICENCE REVIEW
CAFFE BORSA, 49 HIGH STREET, MUSSELBURGH**

With reference to the above, a review of the premises licence has been requested by Mr Kevan Potter, [REDACTED] via East Lothian Licensing Board, in respect of the premises pertaining to 49 High Street, Musselburgh, which is currently trading as Caffe Borsa. The current premises licence holder is BDL Property Management Ltd, 24 Craigpark, Glasgow. The designated premises manager was Kevan Potter who has recently removed himself from that position.

The licensed hours operated by these premises for 'on consumption' are as follows:

Monday – Friday: 1100 – 2300 hours
Saturday & Sunday: 1100 – midnight

Off sales are permitted between the following hours:

Monday – Sunday: 1000-2200 hours

On 31st August 2015, East Lothian Licensing Board forwarded on an email received from Mr Potter informing them that he was no longer the designated premises manager of the above premises with immediate effect. Also within the email, Mr Potter requested a review of the premises licence, stating that “*the owner Gordon Richardson, had been selling alcohol to be consumed outside the premises on tables placed on the street that he did not have permission for.*”

In response to this email and a telephone call received by the police licensing officer from Mr Potter, a joint visit to the premises was arranged that day along with the Licensing Standards Officer, Rudi Fruzynski.

Police and LSO attended the premises at approximately 1430 hours on Monday 31st August 2015. On arrival it was noted that there were tables and chairs placed directly outside the premises on the pavement and customers from the premises were utilising these.

On entering the premises, Mr Richardson was engaged on the telephone. It was noted that there were another 2 members of staff within the premises. The licensing officer spoke with both females and enquired as to whether they were personal licence holders or had received the appropriate 2 hours licensing training. Both females stated that they had done some form of training but had not completed any training records, they also confirmed that neither were personal licence holders.

Mr Richardson was then spoken to and informed of the reason for the police and the LSO visiting. It was pointed out to him that he required to have a permit for the table and chairs outside the premises. He stated that it had “all been sorted out”, that the Transportation Dept of East Lothian Council had visited him that morning and that he had given them a cheque. It was reiterated to Mr Richardson that it was not ‘sorted out’ until he had received the appropriate permit from the Council and had varied his premises licence to incorporate the outside area. After some discussion Mr Richardson conceded that he would remove the table and chairs from outside until he had applied for and been granted the appropriate permissions if that was what he wanted to do.

Mr Richardson was also asked about the allegation of him allowing alcohol to be served to persons who were then allowed to consume the alcohol whilst sitting at the tables outside the premises. He flatly denied this allegation stating that it did not happen.

The police licensing officer then requested to see training records for the staff. Mr Richardson said that they were not on the premises and that they were in the ‘Glasgow’ office. It was explained to him that the training records required to be kept on the premises where the staff were working.

Mr Richardson was also asked if there were any personal licence holders working within the premises, he stated that he was a personal licence holder. The police licensing officer was aware that that was not the case and that he had had his licence revoked in February 2015 due to him failing to carry out the refresher training. Mr Richardson then conceded that was the case. When asked if he had a training record he said that he did not. Mr Richardson was informed that the premises could no longer sell alcohol until the appropriate paperwork was on the premises.

On Tuesday 1st September, the police licensing officer contacted the premises licence holder BDL Property Management and spoke to a Rajan Pandey one of the Directors. Mr Pandey stated that he owned the building and that he leases the premises to Gordon Richardson. Mr Pandey was informed of the request by Mr Potter to Review the Premises Licence. He stated that he would get his business partner Mr Manish Khanna to call back when he returned from holidays.

Thursday 3rd September, Mr Richardson met with the police licensing officer and informed her that the premises opened on the 1st August 2015, that there were no sales of alcohol until 10th August as there was no alcohol on site until then. He stated that the training of staff should have been carried out by Kevan Potter, as he was the premises manager, and it was his responsibility as the personal licence holder. This had not been done. Mr Richardson agreed that he would get the staff training done and that he would re contact the police licensing officer when it was completed.

Monday 7th September, a meeting was arranged to speak with Mr Potter. He stated that he accepted the job of premises manager at Caffè Borsa and had started work on the 29th July. Mr Potter confirmed that the premises started trading on the 1st August but for the first week there was no alcohol on site. Mr Potter stated that on the Wednesday or Thursday prior to the premises opening he carried out training for all 5 members of staff. He stated that Mr Richardson was dismissive of the need for him to be trained. After about an hour of training Mr Potter alleges that Mr Richardson stopped it and stated that his friend a Mr David Kennedy would finish it off at a later date. This never happened and the staff were never fully trained.

Mr Potter also alleges that Mr Richardson had allowed the sale of alcohol at quarter to 11 on Sunday morning (30th August) to two females who had then been allowed by Mr Richardson to consume the wine outside seated at the tables. Mr Potter stated that two members of staff were witness to this and that they had been told by Mr Richardson to “turn a blind eye”.

Monday 7th September at 1230 hours the police licensing officer re visited the premises at Mr Richardson’s request, following the staff training records being completed. Mr Richardson stated that personal licence holder Mr David Kennedy had carried out the training of staff on the Saturday night (5th September). These records were checked and had been signed off by the respective persons. Mr Richardson was informed that alcohol could now be sold on the premises.

Tuesday 8th September the police licensing officer spoke to a female member of staff who confirmed that alcohol had been sold on the premises prior to the staff receiving their full training and that Mr Richardson had allowed two females to take wine outside to be consumed at the tables on Sunday (30th August) just prior to 12 o'clock. She also stated that Mr Richardson had told her and another member of staff to 'turn a blind eye'. She stated that Mr Richardson had explained to the females that it was a 'one off' taking alcohol outside.

Wednesday 9th September the police licensing officer spoke with Manish Khanna, the other director connected to BDL Property Management Ltd. He stated that he had worked with Gordon Richardson on previous developments and that he was aware of his background in relation to him being a disqualified director. Mr Khanna stated that Mr Richardson has a 5 year lease for the premises.

Wednesday 16th September the police licensing officer spoke to another female member of staff who also confirmed that she had sold alcohol to two females on the Sunday 30th August at just after 11 o'clock and when she realised they were sitting outside she asked Mr Richardson what she should do. Mr Richardson stated that he would deal with it and allowed them both to sit outside with the wine. Mr Richardson then asked the staff to "turn a blind eye" to it.

Enquires via Companies House revealed that Mr Richardson is a disqualified director, having been disqualified on 13th September 2010 for 6 years, until 12th September 2016. Although he is not a 'connected person' he has direct responsibility for the operation of the premises as the 'tenant'.

Throughout this enquiry Mr Richardson has been dismissive of the licensing legislation, which is very concerning:

- Stating that the table & chairs permit had been "sorted out" when it hadn't been.
- Stating that the training records were in the "Glasgow office" when they did not exist.
- Implying he was a personal licence holder, knowing full well it had been revoked.
- Denying the sale of alcohol for consumption outside the premises when two members of staff have confirmed to police that this has happened and they were told to "turn a blind eye".

The premises is currently operating without a designated premises manager following Mr Potter's email dated 31st August but it is believed that Mr Richardson is actively seeking to fill the position within the allocated 6 weeks timescale.

Yours faithfully

Insp Andrew Harborow