

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON WEDNESDAY, 23 AUGUST 2017****COUNCIL CHAMBER, 1ST FLOOR, TOWN HALL, 5 CLOVE CRESCENT,
LONDON E14 2BG.****Members Present:**

Councillor Peter Golds (Chair)

Councillor Shah Alam

Councillor Candida Ronald

Officers Present:

Mohshin Ali	–	(Senior Licensing Officer)
Nicola Cadzow	–	(Environmental Health Officer)
Kathy Driver	–	(Principal Licensing Officer)
Gurwinder Kaur Olive	–	(Senior Lawyer, Legal Services)
Simmi Yesmin	–	(Senior Committee Officer)

Representing applicants	Item Number	Role
James Wheale	3.1	Applicant
Kenan Kera	3.2	Licensing Agent
Azmal Hussain	3.3	Supporting Review Application

Representing objectors	Item Number	Role
Charles Curran	3.1	Resident
David Knight	3.1	Resident
David Spurring	3.1	Resident
PC Mark Perry	3.2	Metropolitan Police
David Dadds	3.3	Legal Representative
Md Foez Ahmed	3.3	Licensee

Apologies

None

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

No declarations were made.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION

3.1 Licensing Act 2003: Application for a Time Limited Premises Licence for Nomadic Community Gardens, Fleet Street Hill, E1 5ES

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report which detailed an application for a Time Limited premises licence for Normadic Community Gardens, Fleet Street Hill, London E1 5ES. It was noted that objections had been received on behalf of local residents.

At the request of the Chair, Mr James Wheale, applicant explained that it was a non-profit organisation and was using permission from land owner to use the gardens to host events, workshops and exhibit art work. He explained that in order to sustain the gardens there was a need to generate income and therefore had applied for a limited sale of alcohol, with a series of regulated entertainment to have a wider opportunity to use the gardens. It was noted that a number of universal activates would be introduced to help generate income to help keep operating the gardens.

Members then heard from Mr Charles Curran, Mr David Knight and Mr David Spurring, local residents who expressed similar concerns about graffiti on walls, noise nuisance, lack of management and security and the fact that it was a residential area. It was also noted that there had been an increase in anti-social behaviour since the gardens had been operating. Concerns were also raised about the sale of alcohol and how this would be managed and the fact that if a licence was granted then in actual fact the Normadic Gardens would be sponsored by loud and disruptive parties causing distress to local residents.

In response to questions from Members the following was noted;

- That noise was monitored on Sundays to ensure that it was at a level that had been agreed by Environmental Health.
- That there was only one speaker where recorded and live music would be amplified from.
- That the speaker was not pointed towards a direction where it would cause a rebound.
- That residents had contacted the Police who advised them to contact the out of hours noise team.
- That the Tower Hamlets Out of Hours Noise Team were called on a regular basis by local residents.
- Universal activities included street art, portrait drawings, educational event, Sunday Camp Fire club which was popular and had grown in the numbers attending.
- That music levels were set according to number of attendees.
- That it was the third summer these gardens had been operating and if there had been so many complaints it was questioned why Environmental Health had not complained.

- That there was no record of statutory complaints having been made.
- That the condition set out on 8.2 of the report was not enforceable.
- That the organisation has had successful TEN applications, where regulated entertainment and sale of alcohol had been granted.
- That the applicant only attended the venue once a week on a Monday.
- Mr Wheale stated that he was aware of how to maintain a safe and happy environment.

All parties were asked to make final submissions, residents echoed how poorly managed the venue was and that all events were extremely loud and caused anti-social behaviour. Mr Wheale assured Members that conditions would be adhered to if the licence was granted. He stated that there was never loud music, the level was set according to the number of attendees.

Members retired at 7.30pm to consider the application and reconvened at 8.15pm.

The Licensing Objectives

In considering the application, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Home Office Guidance and the Council's Statement of Licensing Policy and in particular to have regard to the promotion of the four licensing objectives:

1. The Prevention of Crime and Disorder;
2. Public Safety;
3. Prevention of Public Nuisance; and
4. The Protection of Children from Harm

Consideration

Each application must be considered on its own merit. The Sub Committee had carefully considered all of the evidence before them and listened to the verbal representations made by the applicant and all objectors present at the meeting with particular regard to the licensing objectives of crime and disorder, prevention of public nuisance and public safety.

The Sub Committee expressed serious concerns over public safety due to a lack of a management structure and believed that the applicant was unable to demonstrate how he would manage and control the number of patrons frequenting the gardens where licensable activities would take place. There were also a number of other concerns which Members noted;

- That there was little indication as to who would be working in gardens and in what capacity as they were referred to as volunteers by the applicant. It was unclear as to what experience they had and what training they would receive in order to sell alcohol responsibly.
- There was no evidence of a strict noise policy in place and how noise would be measured.

- That it is was an open site with three entry and exit points.
- The ad hoc nature of camp fire events with no procedures in place to monitor the number of visitors that attend and the level at which music is played.
- That the applicant was only at the site on Mondays and not present during the weekend which was the busiest time.
- That there had not been an opportunity to hear from the DPS

Whilst Members noted the conditions offered by the applicant members were not satisfied on how the condition relating to employing SIA door staff for events with over 100 persons would be met. As there was no evidence of how this would be monitored or controlled and questioned how practical it was to arrange for an SIA door staff to be present prior to knowing who would be attending. As the applicant during his submissions was unclear on how many people visit the gardens.

Members noted that no formal objections had been raised by Responsible Authorities in respect of public nuisance however Members gave due weight to the representations made by local residents and accepted that public nuisance did occur.

Decision

Members were not satisfied that sufficient evidence was provided by the applicant to alleviate the concerns raised and there were no additional conditions which Members felt that could be imposed to promote the licensing objectives.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a Time Limited Premises Licence for Nomadic Community Gardens, Fleet Street Hill, London, E1 5ES be **REFUSED**.

3.2 Licensing Act 2003: Application for a variation of a premises licence for Efes, 1 Whitechapel Road, E1 6TY

Members listened to an application made by PC Mark Perry, Metropolitan Police who advised Members that a good compromise had been reached amongst all parties. It was noted that the cumulative impact zone was there to protect the community however each application must be considered on its own merit. In this case there was no crime and disorder associated with the premises and therefore no negative impact would be caused. It was also noted that there had been no complaints or enforcement actions against the premises and the new hours proposed did fall in line with other establishments in the local area. Therefore the agreed hours and conditions were noted and agreed by Members.

The Licensing Objectives

In considering the application, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Home Office Guidance and the Council's Statement of Licensing Policy and in particular to have regard to the promotion of the four licencing objectives:

1. The Prevention of Crime and Disorder;
2. Public Safety;
3. Prevention of Public Nuisance; and
4. The Protection of Children from Harm

Consideration

Each application must be considered on its own merit. The Sub Committee noted that the applicant's representative and the objectors had agreed to amended hours and conditions prior to the consideration of the application. Members briefly heard from all interested parties and agreed to grant the application. Members believed that the amended hours and conditions agreed would help promote the licensing objectives.

Decision

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a Variation of a Premises Licence for Efes, 1 Whitechapel Road, London, E1 6TY be **AGREED** subject to the following conditions;

Hours for supply of alcohol (on sales only)

- Sunday to Wednesday from 10:00 hours to 00:00 hours (midnight)
- Thursday to Saturday from 10:00 hours to 00:30 hours (the following day)

Hours for Late Night Refreshments

- Sunday to Wednesday from 23:00 hours to 00:00 hours (midnight)
- Thursday to Saturday from 23:00 hours to 01:00 hours (the following day)

Hours premises is open to the public:

- Sunday to Wednesday from 10:00 hours to 00:30 hours (the following day)

- Thursday to Saturday from 10:00 hours to 01:30 hours (the following day)

Conditions

1. The premises will operate a Challenge 25 scheme. Signage to this effect will be displayed on entrance. Passports, driving licence and proof of age cards bearing the PASS hologram will be accepted.
2. The DPS will undertake routine monitoring of the refusals register and record that this is being done.
3. All staff that makes sales of alcohol will receive regular training (induction and refresher)
4. An incident log shall be kept at the premises, and be available on request to the Police or an authorised officer. It must be completed within 24 hours of any incident and will record the following:
 - a) all crimes reported to the venue;
 - b) all ejections of patrons;
 - c) any complaints received concerning crime and disorder
 - d) any incidents of disorder;
 - e) all seizures of drugs or offensive weapons;
 - f) any faults in the CCTV system, searching equipment or scanning equipment;
 - g) any refusal of the sale of alcohol;
 - h) any visit by a relevant authority or emergency service.
5. No drinking will be allowed outside.
6. Suitable signage will be displayed at point of exit advising customers to leave the premises quietly.
7. Deliveries will only be made within normal working hours

3.3 Application to Review the Premises Licence for Curry Bazaar, 77 Brick Lane, E1 6QL

The Sub Committee listened to an application made by Mr David Dadds, Licensee's Legal Representative who suggested that the application for Review no longer required a hearing as the applicant had withdrawn the application. Therefore any representations made to support the review should

be dismissed as there was no application to consider. He stated that this must be the case as there was no application produced in the Agenda Pack. Ms Kathy Driver confirmed that she had withdrawn her representations and not the application itself.

Members sought legal clarification and were advised by Mrs Gurwinder Olive, Senior Licensing Lawyer, that under Section 5(2) of the Licensing Act, an Authority seised of a review application must have a hearing if any representations from interested parties remain and in this case it did even where the representations from the party triggering the review were withdrawn. She advised Members that in light of what Ms Driver had said it must be accepted that there was a live application for consideration. However it was accepted that the review application was not included in the report/agenda pack therefore Members would not be able to proceed with the hearing as it did not comply with the Hearing Regulations.

Decision

It was resolved that the matter be adjourned.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

The meeting ended at 9.25 p.m.

Chair, Councillor Peter Golds
Licensing Sub Committee