

LONDON BOROUGH OF TOWER HAMLETS

RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON THURSDAY, 30 AUGUST 2018

**THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Sabina Akhtar (Chair)

Councillor Shah Ameen (Member)

Councillor Ehtasham Haque (Member)

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

No declarations of disclosable pecuniary interests were declared by members.

Councillor Sabina Akhtar stated she had visited the premises in relation to the first application as a customer, but she did not know personally those who run the business.

2. RULES OF PROCEDURE

The Rules of Procedure were noted by the Sub Committee.

3. ITEMS FOR CONSIDERATION

3.1 Licensing Act 2003 Application for a Late Night Refreshment Licence for Cookies and Cream, Unit 5 The Chronos Building, 9-25 Mile End Road, London, E1 4TP

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 had carefully considered all of the evidence before them and considered written and verbal representation from the applicant, the Licensing Authority and the objectors with particular regard to the licensing objectives of the prevention of public nuisance, the protection of children from harm and prevention of crime and disorder.

In reaching their decision, Members noted the application was for providing Late Night Refreshments from 23:00 to 23:30 hours Sunday to Thursday and 23:00 to 00:30 hours Friday and Saturday. Members of the Sub-Committee heard from the Applicants Solicitor Mr Anthony Edwards who stated the premises had been trading for nine years selling ice-creams, cakes and hot-drinks, waffles and crepes. It was applying for a licence to sell hot food – waffles and crepes, drinks beyond 23:00 hours, for an extra half an hour weekdays and hour and half on Fridays and Saturdays. Mr Edwards stated the applicant was not seeking a sale of alcohol licence. Mr Edwards referred to the conditions stated in the operating schedule and said that in view of the objections raised by local residents, the applicant was willing to tighten up the conditions therein so to ensure noise emanating from the premises did not disturb the neighbours. He said the closing mechanism for the back door would be fixed and the outside area for bins would be kept clean and tidy, with three collections of rubbish per week.

The Members also considered the objections of Ms Karen Chiu, Mr Simon Epstein and Mr Barry Callaghan. Members had great empathy with the objectors and heard how noise, vermin infestation and the back door of the premises, which is kept open, contributed to their sleep deprivation and noise nuisance. Mr Epstein stated he had made two complaints in relation of noise to the Noise Team.

Upon considering the application, Members agreed the applicant had adequately demonstrated how he would address the licensing objectives of protection of children from harm and crime and disorder, but felt the Applicant could do more to address the licensing objective of preventing public nuisance by reducing the impact of and minimising the chances of noise nuisance. Members considered that this could be achieved through a means for residents to communicate concerns to the business owner, as part of the robust raft of conditions to support the Licensing objectives.

Members reached a unanimous decision. Members agreed to grant the application with conditions added to the operating schedule as stated below.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a Late Night Refreshment Licence for Cookies and Cream, Unit 5, The Chronos Building, 9-25 Mile End Road, London E1 4TP

be **GRANTED** with the conditions consistent with the operating schedule, as modified by the Applicants representative plus the conditions agreed with Environmental Protection and the Police, as set out below:

Recorded Music (indoors only)

- Sunday – Thursday 12:00 – 23:30 hours
- Friday - Saturday 12:00 – 00:30 hours

Late Night Refreshments (indoors only)

- Sunday – Thursday 23:00 – 23:30 hours
- Friday - Saturday 23:00 – 00:30 hours

Hours premises are open to the public:

- Sunday – Thursday 12:00 – 00:00 hours (midnight)
- Friday – Saturday 12:00 – 01:00 hours

Conditions consistent with Operating Schedule (amendments shown in italics)

1. Ensure staff are familiar with the licensing objectives and adhere to them at all times.
2. Clear and legible notice will be placed outside the premises indicating the normal hours under the terms of the premises licence during which licensable activities are permitted.
3. Clear and conspicuous notices warning of potential criminal activity, such as theft, that may target customers will be displayed.
4. Custom will not be sought by means of personal solicitation outside or in the vicinity of the premises.
5. Drinks will only be served in plastic bottle and paper cups.
6. Persons appearing drunk or under the influence of illegal substances will not be permitted into the premises.
7. Maintain an incident log of any criminal activity or attempted criminal activity within or within the immediate vicinity of the premises.
8. A log book or recording system will be kept in the premises for recording inspections made including those required by legislation, and information compiled to comply with any public safety condition attached to the premises license. The logbook shall be kept available and produced for inspection when required by persons authorised by the Licensing Act 2003 or associated legislation.
9. Prominent, clear and legible notices will be displayed at exits requesting the public to respect the needs of nearby residents and to leave the premises and the area quietly.
- 10.** Deliveries to the premises will be carried out at such a time or in such a manner as to prevent nuisance and disturbance to nearby resident and ***nor after 7:00 pm***
- 11.** Staff who arrive early morning or depart late at night when the business has ceased trading conduct themselves in such a manner to avoid causing disturbance to nearby residents. ***No more than one member***

of staff to have access to the back of the premises at any one time.

12. Customers will be asked not to stand around talking in the street outside the premises; and asked to leave the vicinity quickly and quietly.
13. The movement of bins and rubbish outside the premises will be kept to a minimum after 11.00pm. This will help to reduce the levels of noise produced by the premises.
14. Noise or vibration will not emanate from the premises such as to cause unreasonably disturbance to neighbours. The placing of refuse, such as bottles, into receptacles outside the premises takes place at times that will prevent disturbance to nearby properties ***and before 11pm.***
15. Provision of mechanical ventilation and air conditioning system will not allow noise breakout from the premises or cause a nuisance by its operation.
16. All the rubbish produced by the premises will be stored securely in a designated area or in a bin with a tight fitting lid. This will help prevent litter being blown around.
17. Children below the age of 16 will be excluded from the premises between the hours of 23:00 to 04:00.
- 18. The rear door to the premises shall be kept closed (except for access) after 11pm***
- 19. The rear area shall be kept clear with a daily cleaning schedule.***

Conditions Agreed/Requested by Responsible Authority

Agreed with Environmental Protection

1. Loudspeakers shall not be located in the entrance lobby or outside the premise building.
2. All windows and external doors shall be kept closed after 22:00 hours, or at any time when regulated entertainment takes place, except for the immediate access & egress of persons.
3. The premises license holder shall ensure that noise or vibration is not audible at the nearest noise sensitive premises.

Agreed with Police

4. A CCTV system to be put in place, the cameras are to be of sufficient quality so that people's faces are clearly identifiable from the footage. The cameras are to be placed in such a way as they cover areas of the premises specified by the Police.
5. The system is to record the footage and to keep it for a minimum of 30 days and a copy off CCTV footage is to be made available to Police or the Local Authority upon request (subject to data protection legislation). While the premises are open to the public a member of staff must be on duty who can operate the CCTV system.
6. An incident book is to be kept to record all incidents of crime and incidents like refusal of entry to the premises, asking people to leave etc.

In addition to the above, Members imposed the following conditions in light of the residents' representations that:

1. The back door to the premises is immediately fixed and remains shut other than for the purpose of entry and egress.
2. To ensure the cleaning of the outside area at the rear of the premises is done regularly and that area is kept clean and tidy; and
3. The premises owners/management have a means of clear communication through a publically visible noticeboard or website for the residents to be able to make contact and raise issues.

3.2 Licensing Act 2003 Application for Variation of a Premises Licence for Angel Convenience, 23 Roman Road, London E2 0HU

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 considered written and verbal representation from the applicant, the Licensing Authority and the objectors with particular regard to the licensing objectives of the prevention of public nuisance, the protection of children from harm and the prevention of crime and disorder.

In reaching their decision, Members noted the previous breaches of conditions, the selling of alcohol after the permitted hours, the sale of cigarettes to under-age children and the premises staying open beyond its licenced hours, as documented by the evidence provided by the Responsible Authorities. In particular Members were concerned about the incident which took place on the 4th June 2018, outside the premises as set out on pages 158 and 159 of the agenda report. In that regard, Members were concerned about the Applicants slow response in providing CCTV evidence to the police and the lack of concern about seeking to prevent anti-social behaviour outside the premises.

Whilst the Sub-Committee appreciated the Applicants desire to extend the licensable hours for the business, and noted his reassurances that he would comply with the licencing conditions and objectives, Members had no confidence that if the additional hours sought were granted, the Applicant would not again fail to comply with the conditions of the premises licence and uphold the licensing objectives. Members considered that on the balance of probabilities, the concerns raised by both the Responsible Authorities and residents in their evidence showed the Applicant could not be trusted to keep to the existing licensed hours, nor to comply with the conditions of the existing premises licence if this current application were to be granted.

Members were not satisfied that the Applicant had shown he could be trusted to uphold the licensing objectives of the prevention of crime and disorder, the protection of children from harm and the prevention of public nuisance from the evidence of the Police, Trading Standards and the Licensing Authority in both their oral representations in the meeting and in their written representations of residents in the agenda report.

In reaching their decision, Members applied the civil burden of proof on the balance of probabilities.

Members reached a unanimous decision to refuse the application.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a variation of a Premises Licence for Angel Convenience, 23 Roman Road, London E2 0HU be **REFUSED**.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

The Chair agreed to extend the decision deadlines for the following applications;

| Premises | Hearing Date | Decision by |
|------------------------------------------------------------|-----------------|-------------|
| The Royal College of Pathologist, 6 Alie St, London E1 8QT | 27/09 2.30pm | 14/08 |
| Mailinda, 62 Mellish Street, London, E14 8NS | 27/09 2.30pm | 17/08 |
| The Victoria, 110 Grove Road, London, E3 5TH | 02/10 6.30pm | 23/08 |
| Urban Baristas, 138 Wapping High St, London E1W 3PA | 02/10 6.30pm | 28/08 |

| Premises | Hearing Date | Decision by |
|--------------------------------------------------------------|-------------------------------|--------------------|
| Pizza Union, 25 Sandy Row, London, E1 7HW | 16/10 6.30pm | 12/09 |
| East Gifting Outfit Ltd 10 Tomlins Grove London E3 4NX | 16/10 6.30pm | 21/09 |
| Kays Local, 209 Roman Road, London E2 0QY | 30/10 6.30pm | 27/09 |
| Tanim Superstore, 542 Commercial Rd, London E1 0HY | 30/10 6.30pm | 01/10 |
| Cost Price 41 Brick Lane London E1 | 13/11 6.30pm | 13/10 |

The meeting ended at 10.00 p.m.

Chair, Councillor Sabina Akhtar
Licensing Sub Committee