

LONDON BOROUGH OF TOWER HAMLETS**MINUTES 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

Councillor Ehtasham Haque

Officers Present:

Kathy Driver	–	(Principal Licensing Officer)
Corinne Holland	–	(Licensing Officer)
David Wong	–	(Legal Services)
Kevin Maple	–	Consumer Services Officer
PC Mark Perry	–	Metropolitan Police
Farhana Zia	–	Senior Committee Services Officer

Representing applicants	Item Number	Role
Mr Anthony Edwards	3.1	Solicitor
Mr Oliul Kobir	3.1	Applicant
Mr Graham Hopkins	3.2	Applicants Representative
Mr Mohammed Taufiq Alahi	3.2	Applicant

Representing objectors	Item Number	Role
Ms Karen Chiu	3.1	Local Resident
Mr Simon Epstein	3.1	Local Resident
Mr Barry Callaghan	3.1	Local Resident
Kathy Driver	3.2	Licensing Officer
Kevin Maple	3.2	Consumer Services Officer
PC Mark Perry	3.2	Metropolitan Police
Ms Charlotte Boden	3.2	Local Resident

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

At the request of the Chair, Ms Corinne Holland, Licensing Officer introduced the report, which detailed 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. It was noted that objections had been received on behalf of local residents. The application was seeking a licence to serve hot food after 23:00 hours.

At the request of the Chair, Mr Anthony Edwards, Applicants solicitor briefly explained that the business had been trading for the last 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 stated that in so far as the objections were concerned, Members ought to disregard the planning document produced in the second supplemental agenda, pages 21-24 as the application was for a late night refreshment licence; and the licensing process is separate from planning. He said the objections in regard to noise and air conditioning whilst valid in their own right, were checked by the Local Authority and it was found that they were not above the Local Authority noise limits. Mr Edwards made reference to the photograph on page 27 of the second supplemental agenda and stated this showed the bin area of Subways rather than of his client's premises and therefore should also be disregarded. Mr Edwards proposed a number of modifications to the conditions proposed as being consistent with the operating schedule on pages 22 and 23 of the agenda, in order to tighten these up and to reassure the local residents as to the Applicants willingness to support the licensing objectives.

At the request of the Chair, Members also heard from the Objectors present – Ms Karen Chiu, Mr Simon Epstein and Mr Barry Callaghan. Ms Chiu explained that the residents of The Chronos Building had recently set up a

Whatsapp group and had begun to collectively catalogue incidents of noise nuisance and complaints. She said the main issue had been the back door which was being kept wedged open. She said the alarm which should have sounded in the event of that door being open had been disabled and residents therefore experienced noise nuisance day and night. She said later opening hours would only exacerbate the noise nuisance experienced.

Mr Callaghan said the photograph on page 27 of the supplement agenda was taken to show the overflow of bins and he had personally witnessed staff from Cookies and Cream disposing of rubbish in the bins of the neighbouring restaurant. Mr Callaghan said the Chronos Buildings were originally designed as office space, with flats above them but had been converted into restaurants and therefore this was not ideal.

Mr Simon Epstein stated he had made complaints to the Noise Team and whilst he did not live directly above the restaurant, he is on the second floor, the noise emanating from the restaurant was loud. He said staff communicated by shouting rather than talking and with the back door wedged open the noise, vermin infestation and bins overflowing were regular annoyances.

In response to questions from Members the following was noted:

1. The Applicant stated a mechanism for the back door had been ordered and that this would be fixed immediately.
2. That the cleaning rota for the outside space would be carried out three times a week.
3. That more of an effort would be made to communicate with the residents, so any complaints raised can be resolved amicably.
4. To the residents, it was explained that having an enforceable licence would be more advantageous than no licence being in place.

In summing up, Mr Edwards reiterated the proposed amendments he was putting forward and stated that the granting of the application would mean his client could provide late night refreshment to customers beyond 23:00 hours. He said this would only be an extra half an hour on Sundays to Thursdays and an extra one and half hours on Fridays and Saturdays. He said that having a licence would also be beneficial to the local residents.

The objectors stated their concern about the licence only being enforceable from 23:00 hours onwards but appreciated that a licence would be better than no licence. They also said that the Applicant must do more to reduce noise as well as keep the outside area clean and tidy.

Members adjourned the meeting at 19:34 hours for deliberations and reconvened at 20:29 hours.

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 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

At the request of the Chair, Ms Corinne Holland, Licensing Officer introduced the report, which detailed the application for a variation of a premises licence for Angel Convenience, 23 Roman Road, London E2 0HU. It was noted that objections had been received on behalf of the Licensing Authority, Trading Standards, the Metropolitan Police and local residents.

The Sub-Committee heard from Mr Graham Hopkins, the Applicant's Licensing Representative who firstly put forward amendments to the proposed opening times announcing a reduction of one hour to the proposed times as stipulated on page 108 of the agenda. Mr Hopkins stated the application before the Sub-Committee was in view of the Late Night Levy introduced earlier in the year as well as for the viability of the business. Referring to the objections from the Police at Appendix 7, Mr Hopkins stated that the requirement was for the CCTV to be operational and his clients CCTV was operational, albeit that the Applicant was unable to download the images from the system onto a USB stick. He said his client was unfamiliar with the equipment which had recently been upgraded with a new hard drive. Mr Hopkins stated he had viewed the footage from which it is clear the young person ran into the shop. However, the young person was not known to the Applicant or staff of the convenience store and was thrown out. Mr Hopkins stated the young person in question is barred from the premises and the back door is now closed.

Mr Hopkins made reference to the twenty two enforcement visits made by the Trading Standards team as documented on pages 161 and 162 of the agenda pack. He said that of those visits over five years, only four complaints had been made. Mr Hopkins said his client accepted the non-compliance of 21st May 2014 and 4th July 2015, but disputed the non-compliance of 9th October 2013 and 15th May 2018. With respect to the 9th October 2013 non-compliance, the Applicant stated the two open packets of cigarettes found behind the counter belonged to staff members and single cigarettes were not being sold to under-age young people. With regard to the 15th May 2018, the sale of alcohol was inadvertently sold, as the clock was behind the cashier rather than in front. Mr Hopkins said he had advised the Applicant Mr Alahi to move the clock onto the wall in front so the cashier had a clear view of the time. Mr Hopkins said that of the twenty two visits, seventeen were compliant.

Regarding the representations made by residents, Mr Hopkins said no photographic evidence had been provided and there had been no complaints to the Local Authority or responsible authorities. Mr Hopkins said his client Mr Alahi totally refuted the allegation of drug selling and/or drug use. The Applicant had taken remedial action and has installed a CCTV camera outside the shop as well as displayed a phone number in the shop window, for residents to contact should they need to.

Mr Hopkins stated that should the Sub-Committee be minded to grant the application, a set of amended conditions were being proposed.

At the request of the Chair, the Sub-Committee heard from the objectors. Ms Kathy Driver, Licensing Officer, PC Mark Perry for the Metropolitan Police, Mr Kevin Maple for Trading Standards and Ms Charlotte Boden on behalf of Tracy Barbe for Globe Town residents.

Ms Driver referred Members to the non-compliance of 15th May 2018 page 162 and the incidents referred to in Appendix 9 at page 166 – those of 5th May 2018 and 19th January 2013. Ms Driver pointed out to the Sub-Committee that the non-compliances were not a minute or five minutes past the hour but a total of forty one minutes on the 5th May 2018 and twenty minutes on the 19th January 2013. On the 9th June 2018, the officer conducting the test purchase was allowed to walk into the shop and pick up a bottle of alcohol before being told a sale could not take place. Ms Driver said the Applicant did not keep the alcohol covered at all times after hours and was selling to known customers. As recently as to the 17th August 2018, complaints from residents were being received.

Mr Maple explained that it was a common defence to state the cigarettes belonged to staff when in actual fact single cigarettes are being sold to young people. He said the chargers that were seized on the 21st May 2014 were unsafe and if sold to potential customers could have caught fire or exploded without warning. Mr Maple said the 'inadvertent' sale of the 15th May 2018 was a sale which took place after the permitted hours. Further test purchases undertaken by a Police Cadet resulted in the positive sale of cigarettes on the 8th April 2017. Mr Maple stated a test purchase in August 2017 was aborted

with the cashier stating "I cannot give you cigarettes, you're not a regular and are not on the list."

PC Mark Perry stated the evidence from the Trading Standards made it clear there was no managerial control at the premises, with a total disregard for the legal requirement for selling alcohol and tobacco. He said they had undermined the licensing objectives. PC Perry referred Members to page 158 of the agenda and the incident which took place on the 4th June 2018. He said despite the incident taking place outside the shop, no effort was made by the Applicant or staff to report the anti-social behaviour or indeed help the victim. PC Perry stated it was clear groups of young people, known to the Applicant hung around outside the shop. PC Perry stated this was further supported by the resident's evidence on page 173, second paragraph. He said this was a flagrant breach of the licence and was having a negative impact on the community.

This view was further endorsed by Ms Boden on behalf of the residents of Globe Town. She said the anti-social behaviour was having a negative impact and she did not think the premises should be permitted to open later in the night, when there were other providers in the area such as Tesco which was two minutes away.

In response to questions from members the following was noted:

- That it was a common defence to state cigarettes belonged to staff rather than admit they were being sold as single cigarette sales to under-age young people.
- That stating the CCTV was operational does not satisfy the condition to provide CCTV footage when asked for by the Police. To provide the evidence two months after the incident is unacceptable.
- The Applicant was asked if he thought it was acceptable to sell alcohol and cigarettes to under-age young people, to which he responded that it was harmful.
- The Applicant was asked how he could be trusted to adhere to the licensing conditions in view of the breaches evidenced. The Applicant stated he was better informed of the licensing conditions and would adhere to these.

The Applicants representative did not make any further remarks. PC Perry on behalf of the objectors stated that the Sub-Committee should satisfy themselves if the Applicant could be trusted to abide to the licensing conditions in light of the evidence before them.

Members adjourned the meeting at 21:21 hours for deliberations and reconvened at 21:56 hours.

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 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
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