

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON TUESDAY, 30TH OCTOBER 2018****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Dan Tomlinson (Chair)

Councillor Faroque Ahmed

Councillor Victoria Obaze

Officers Present:

Mohshin Ali	– (Principal Licensing Officer)
Nicola Cadzow	– (Environmental Health Officer)
Kathy Driver	– (Principal Licensing Officer)
Corinne Holland	– (Licensing Officer)
David Wong	– (Legal Services)
PC Mark Perry	– Metropolitan Police
Farhana Zia	– Senior Committee Services Officer

Representing applicants	Item Number	Role
Mr Anthony Edwards	3.1	Applicant's Solicitor
Mr Azmal Hussain	3.1	Applicant
Mr Anthony Edwards	3.2	Applicant's Solicitor
Suhelur Rahman	3.2	Applicant
Amanur Rahman	3.2	Applicant's Brother
Mr Anthony Edwards	3.3	Applicant's Solicitor
Mr Catalin Loan Lonita	3.3	Applicant

Representing objectors	Item Number	Role
Kathy Driver	3.1	Principal Licensing Officer
Nicola Cadzow	3.1	Environmental Health Officer
PC Mark Perry	3.1	Metropolitan Police
Kathy Driver	3.2	Principal Licensing Officer
Kathy Driver	3.3	Principal Licensing Officer

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

No declarations of disclosable pecuniary interests were declared by members.

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 variation of a premises licence for Preem Restaurant, 118-122 Brick Lane, London E1 6RL**

At the request of the Chair, Mr Mohshin Ali, Principal Licensing Officer introduced the application stating that the Applicant was seeking to extend the hours of operation plus remove some of the conditions on the licence. Mr Ali referred Members to page 22 of the agenda which stated the current opening hours and the new hours being applied for. Mr Ali referred Members to the site plan appended at Appendix 3 and the representations of the Responsible Authorities. Mr Ali said these could be found at pages 75 to 84 of the agenda. Several objections had also been received from local residents and Housing Associations in the vicinity and these were documented on pages 86 to 111 in the agenda pack.

Members heard from the Applicant's Solicitor, Mr Anthony Edwards who stated his Client had been operating in Brick Lane for more than 20 years and, in a tough trading environment, was seeking an extension of opening hours and a relaxation of the condition to have SIA accredited door supervisors throughout the week. Mr Edwards referred Members to the supplementary agenda and the proposed amendment to the extension of hours, seeking extended hours to 02:00 hours in respect of only 120-122 Brick Lane rather than for the whole restaurant, so as not to add to the cumulative impact. Mr Edwards referred to the objections raised by residents, and said these were not specific to the restaurant, but complaints in relation to the general neighbourhood. Mr Edwards referred to the objections of the Responsible Authorities and said that whilst it is clear there are issues with touting in Brick Lane, his client would ask all employees to sign the restaurant's customer service policy, which states that they will not engage in touting or offer reductions or special deals.

Mr Edwards continued, stating that the need to have SIA accredited door supervisors for the whole week was excessive and expensive, and his Client was seeking variation of the related condition to apply only to Thursday to Saturday.

The Members also considered the objections of the Responsible Authorities who said touting had been a significant issue in Brick Lane and there had been on-going and historic breaches. Kathy Driver referred Members to page

76 of the agenda, paragraph 5, stating that as recently as the 22nd July 2018, Mr Hussain's employees were touting for business. PC Mark Perry added that it was a question of trust when considering the application which sought more than what was provided in the existing premises licence: could Mr Hussain be trusted to abide by the variations sought given the history of compliance at the premises showed issues had arisen regarding compliance with what was already required in the premises licence as it stood? PC Perry said that the restaurant's history showed a flagrant abuse of licensing requirements, which did not uphold the licensing objectives. PC Perry said anti-touting requirements had been contravened, and there was an increased risk of anti-social behaviour and public nuisance as a result.

PC Perry acknowledged that the condition to have SIA accredited door supervisors on duty from 18:00 hours Monday to Sunday was perhaps onerous, and consideration should be given to relaxing this condition.

In response to questions from Members the following was noted:

- Information provided by the Licensing Authority on pages 76-77 provided information of the complaint history against Preem Restaurant and the recorded incidents of touting. It was at its peak in 2012 -13. However, the issue of aggressive behaviour and touting in Brick Lane continues to this day.
- The Applicant assured Members that steps had been taken to remedy against touting and complying with the licensing conditions. Mr Hussain said his employees had been warned against touting and would only be offering the menu rather than any special deals.
- In reference to page 69 and why some restaurants are open until 3:00 a.m. PC Mark Perry explained that one other set of premises, Jasmine had been subject to a review, when touting in the area was at a peak. He said extra CCTV and SIA accredited door supervisors had resulted in a reduction of complaints, but the issue of touting still remained.
- Mr Anthony Edwards stated that the vast majority of the objections received were from residents of Spitalfields and not Brick Lane itself. When Members enquired what the Applicant had done to alleviate noise and public nuisance caused by drunken patrons leaving the premises, he said his client had not received any direct complaints from his neighbours.
- In response to Members enquiring how busy the restaurant is, Mr Hussain confirmed that the restaurant would be at full capacity at 12:30 a.m. on a Friday night. Mr Edwards further explained the extension of hours to 02:00 a.m. would apply to only half of the restaurant.
- Mr Azmal Hussain gave assurances to the Members that he would no longer tout for business.

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 varying of opening hours for Preem Restaurant from 12:00 (midday) to 01:30 hours (following day) Monday to Sunday to 11:00 a.m. to 02:30 hours (following day) Monday to Sunday. The application was also seeking to remove the condition to have SIA accredited door supervisors on duty on Monday to Sunday from 18:00 hours. In addition Preem Restaurant was seeking an extension in the hours for the sale of alcohol and provision of late night refreshment. Members of the Sub-Committee heard from the Applicants Solicitor Mr Anthony Edwards who stated his Client had been operating in Brick Lane for more than 20 years and, as per the supplementary agenda, was proposing an amendment to the extension of hours, in that the extended hours be granted in respect of 120-122 Brick Lane rather than the whole restaurant to 02:00 hours, in order to reduce the cumulative impact. Mr Edwards referred to the objections raised by residents and said these were not specific to the restaurant but general complaints in relation to the neighbourhood. Mr Edwards referred to the objections of the Responsible Authorities and said that whilst it is clear there are issues with touting in Brick Lane his client would ask all employees to sign the restaurant's customer service policy, which states that they will not engage in touting or offer reductions or special deals.

The Members also considered the objections of the Responsible Authorities who said touting had been a significant issue in Brick Lane and there had been on-going and historic breaches. Kathy Driver referred Members to page 76 of the agenda, paragraph 5, stating that as late as the 22nd July 2018, Mr Hussain's employees were touting for business. PC Mark Perry added that it was a question of trust. In seeking extensions to the terms of the premises licence, could Mr Hussain be trusted to abide by the licensing conditions given what had previously happened? PC Perry said that the restaurant's history

showed a flagrant abuse of the conditions, which did not uphold the licensing objectives. PC Perry said anti-touting requirements had been contravened, and there was an increased risk of anti-social behaviour and public nuisance as a result.

PC Perry acknowledged that the condition to have SIA accredited door supervisors on duty from 18:00 hours Monday to Sunday was perhaps onerous, and consideration should be given to relaxing this condition.

Upon considering the application, 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 and the prevention of public nuisance in light of the written and oral evidence provided by the Responsible Authorities. However Members agreed that part of the condition to have SIA accredited door supervisors on duty could be relaxed. Members had heard from Mr Edwards that residents' complaints were not specific to the premises and related to issues in the neighbourhood generally.

In reaching their decision, the Members took into account that the premises are situated in the Cumulative Impact Zone, and the applicant's written and oral representations failed to satisfy the Members that if extended hours were granted and late night refreshment permitted, that would not add to the cumulative impact of public nuisance and / or crime and disorder in the Cumulative Impact Zone.

The Members also took into account that the Secretary of State's statutory guidance and the Council's Licensing Policy meant that where there is any application for a premises licence or a variation of such licence under the Licensing Act 2003 relating to premises in a Cumulative Impact Zone, the presumption must be to refuse such application unless the applicant can show evidence that granting such application would not add to the cumulative impact in the area.

Members felt there was no evidence that removal of the condition requiring SIA accredited door supervisors to be on duty would add to that cumulative impact.

Members reached a majority decision. Members agreed by a majority to refuse the application in part as to the extension of hours and provision of late night refreshment.

Accordingly, the Sub Committee made a majority decision to:-

RESOLVED

That the application for a variation of a premise licence for Preem Restaurant, 118 – 122 Brick Lane, London E1 6RL be **REFUSED in all respects** aside from removal of the licensing condition to have SIA accredited door supervisors on duty on Thursday to Saturday from 20:00 hours.

3.2 Licensing Act 2003 Application for New Premises Licence for German Doner Kebab, 207 Mile End Road, London E1 4AA

Before hearing this application, the Members of the Sub-Committee having noted there were two apparently conflicting applications in respect of the same premises, sought to establish who the Applicant was in each instance and the respective relation to the business of each applicant in relation to these premises – Mr Suhelur Rahman and Mr. Catalin Lonita.

The Chair of the Sub-Committee asked Mr Anthony Edwards who appeared as solicitor for both applicants, whether he wanted to withdraw one of the two applications before the Sub-Committee. Mr Edwards was reluctant to withdraw either application, and said he would prefer if the Members heard both applications before deciding on which should be granted. Mr Edwards explained that one Applicant, Mr Suhelur Rahman was applying for a premises licence on behalf of Interlagos Holdings Limited. Interlagos Holdings Limited had won the franchise rights to operate a German Doner Kebab in Tower Hamlets. Interlagos Holdings Limited was a family run company, who had several business interests in Tower Hamlets but who had never run a food business before. The Company Director for Interlagos Holdings Limited is not the Applicant, but his father, Khalisur Rahman, whilst the Applicant is the leaseholder of the premises.

Mr Edwards said the breaches cited by the Responsible Authorities on page 181-183, were due to the Applicant's brother, Amanur Rahman who was responsible for the day to day running of the shop at 207 Mile End Road, London E1 4AA. Due to the family having never run a food business before, they were ignorant of the fact that a late night refreshment licence would be required. Mr Edwards said Amanur Rahman acknowledged the mistakes were his responsibility. However since becoming aware that a licence is needed the business has traded for five weekends under a Temporary Events Notice Licence (TENS) with no issues whatsoever.

In response to questions from Members the following was noted:

- It was stated Mr Suhelur Rahman was the leaseholder of the premises, and Mr Catalin Loan Lonita was the manager employed to manage the business.
- In response to why the company was applying for the licence, Mr Edwards stated it was a family run business.
- Mr Suhelur Rehman was asked if he was a manager or employee of the company or was he one of the directors of the Company? Mr Suhelur Rahman said he was a salaried employee of Interlagos Holdings Ltd.
- Mr Mohshin Ali, Senior Licensing Officer confirmed the Company House search did not show Mr Suhelur Rahman as a Director of the company.

- Mr Suhelur Rahman reiterated he was a leaseholder of the building and his father was the director of the company. Mr Suhelur Rahman stated that he was responsible for the day to day decisions in relation to the business and Mr Lonita was employed to oversee the operation of the business.

The Members of the Sub-Committee heard from their legal advisor that it was a concern that two apparently conflicting applications relating to the same premises, by two applicants whose respective roles regarding the business were unclear, meant there was no clear indication as to who was accountable for compliance with licensing requirements in the business. In the event of either application being granted, it was unsatisfactory that there was ambiguity as to who was responsible for compliance. In response to Members' questions, their legal advisor clarified that a limited company is a distinct artificial person at law from any human party, so it was unclear how Mr. Suhelur Rahman was in any legal position to apply for a premises licence on behalf of a company of which he was not an officer such as a director or company secretary.

The Members of the Sub-Committee heard from their legal advisor that they could adjourn to a later date, and invite Mr Edwards and the applicants in the meantime to reconsider the respective applications, in light of the above concern.

Mr Edwards indicated that if that happened, the same two applications could be presented at that later date without modification.

The Members of the Sub-Committee decided not to adjourn to a later date. However, they would adjourn for a short period today to consider the confusion caused by having two apparently conflicting applications, and two applicants, neither of whom were officers of Interlagos Holdings Limited, the company on whose behalf Mr Suhelur Rahman was making one of the applications.

After the Members of the Sub-Committee returned, Mr Edwards conceded that running the two applications concurrently was confusing, and the role of Mr Suhelur Rahman within the company was unclear. Mr Edwards withdrew Mr. Suhelur Rahman's application for this reason.

3.3 Licensing Act 2003 Application for New Premises Licence for German Doner Kebab, 207 Mile End Road, London E1 4AA

At the request of the Chair, Mr Mohshin Ali, Principal Licensing Officer introduced the application, stating that the Applicant was seeking a late night refreshment licence for German Doner Kebab, 207 Mile End Road, London E1 1AA. Mr Ali stated a copy of the application was appended at Appendix 1, the site plan at Appendix 2 and the Home Office guidelines at Appendix 5. Mr

Ali said the representations against the application could be found in Appendices 6 and 7.

Members of the Sub-Committee heard from the Applicant's Solicitor Mr Anthony Edwards, who confirmed that the Applicant was Mr Catalin Loan Lonita and that German Doner Kebab was a franchise business looking to operate in the United Kingdom. Mr Edwards stated Mr Lonita had no responsibility for previous failings in relation to the premises having previously sold hot food during hours in which it was unlawful to do so without a late night refreshment licence. Mr Edwards also said Mr Lonita was an experienced business manager, and had been a manager since March 2018. The business had previously successfully operated late night refreshments under Temporary Events Notices (TEN's) on five weekends without problems at all. Mr Edwards said the licence sought was essential if the business was to ensure its longevity and success, as profit was being lost by the business being unable to serve late night refreshment.

The Members considered the objections of the Licensing Authority, and Kathy Driver referred Members to page 242 of the agenda. Ms Driver said the main cause of concern was who was responsible for the business and who would be making day to day decisions.

It was unclear from discussion between the applicant, Mr Edwards, and the Members as to who was in charge of the business. Mr. Lonita presented as a manager, but one of his party who attended the Sub-Committee hearing presented as the owner/leaseholder yet was not the applicant, and there was a limited company, Interlagos Limited involved in the business, but Mr. Lonita was not an officer of that company. There were inconsistencies between the application of Mr. Lonita and the application regarding the same premises which comprised item 3.2 of the agenda.

Following an adjournment at 20:35 p.m. for members to consider this confused state of affairs, the Members returned at 20:53 p.m., after which the other application in respect of the same premises (item 3.2 of the agenda above) was withdrawn by Mr Edwards, and the Members continued proceedings by proceeding to hear the application by Mr. Lonita. Members had considered during their adjournment whether both applications comprising agenda items 3.2 and 3.3 ought to be deferred in light of the confusion as to who was responsible for the business, to give the applicants and their solicitor time to reconsider and revise the respective applications regarding the same premises. However, this was no longer necessary when Mr Edwards withdrew the application comprising agenda item 3.2.

Kathy Driver, Senior Licensing Officer stated an adjournment would not have benefitted the Applicant, and in light of only one application now remaining in relation to this business, in the event of a grant of Mr. Lonita's application, anyone else who transpired to be the owner of the business could apply for a transfer of licence, if required.

Members enquired of the Applicant if he had a Food Hygiene Certificate and what steps would be taken to mitigate against breaches of the licence. The

Chair asked Mr Lonita if he was aware that if a licence were granted, he would be responsible if the conditions of the licence were not adhered to. Mr Lonita responded positively stating he was aware of the undertaking he was taking on if granted his application.

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 application was for provision of Late Night Refreshment from 23:00 hours to 23:55 hours Sunday to Wednesday and 23:00 hours to 00:55 hours the following day Thursday to Sunday. Members of the Sub-Committee heard from the Applicant's Solicitor Mr Anthony Edwards, who confirmed that the Applicant was Mr Catalin Loan Lonita and that German Doner Kebab was a franchise business looking to operate in the United Kingdom. Mr Edwards stated Mr Lonita had no responsibility for previous failings in relation to the premises having previously sold hot food during hours in which it was unlawful to do so without a late night refreshment licence. Mr Edwards also said Mr Lonita was an experienced business manager, and had been a manager since March 2018. The business had previously successfully operated late night refreshments under Temporary Events Notices (TEN's) on five weekends and incurred no problems at all. Mr Edwards said the licence was essential if the business was to ensure its longevity and success, as profit was being lost by the business being unable to serve late night refreshment.

The Members considered the objections of the Licensing Authority and Kathy Driver referred Members to page 242 of the agenda. Ms Driver said the main cause of concern was who was responsible for the business and who would be making day to day decisions.

It was unclear from discussion between the applicant, Mr Edwards, and the Members as to who was in charge of the business. Mr. Lonita presented as a manager, but one of his party who attended the Sub-Committee hearing presented as the owner/leaseholder yet was not the applicant, and there was a limited company, Interlagos Limited involved in the business, but Mr. Lonita was not an officer of that company. There were inconsistencies between the application of Mr. Lonita and the application regarding the same premises which comprised item 3.2 of the agenda.

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Kathy Driver, Senior Licensing Officer stated an adjournment would not have benefitted the Applicant, and in light of only one application now remaining in relation to this business, in the event of a grant of Mr. Lonita's application, anyone else who transpired to be the owner of the business could apply for a transfer of licence, if required.

Members enquired of the Applicant if he had a Food Hygiene Certificate and what steps would be taken to mitigate against breaches of the licence. The Chair asked Mr Lonita if he was aware that if a licence were granted, he would be responsible if the conditions of the licence were not adhered to. Mr Lonita responded positively stating he was aware of the undertaking he was taking on if granted his application.

Members reached a majority decision to grant the application.

Accordingly, the Sub Committee made a majority decision to:-

RESOLVED

That the application for a New Premises Licence application for German Doner Kebab, 207 Mile End Road, London E1 4AA be **GRANTED** with conditions consistent with the operating schedule and the conditions agreed with the Metropolitan Police.

The provision of late night refreshment- indoors

Sunday to Thursday from 23:00 hours to 23:45 hours

Friday to Saturday, from 23:00 hours to 00:45 hours the following day

Non-standard timings

Bank Holidays and the preceding night, from 23:00 hours to 00:45 hours the following day

The opening hours of the premises

Sunday to Thursday, from 10:00 hours to 00:00 hours (midnight)

Friday to Saturday, from 10:00 hours to 01:00 hours the following day

Non-Standard timings

Bank Holidays and the preceding night, from 10:00 hours to 01:00 hours the following day

Conditions consistent with Operating Schedule (as offered by the applicant)

1. No Music or Amplified Sound shall be generated on the premises to give rise to a nuisance to neighbouring residents
2. Loudspeakers shall not be located in the entrance lobby or outside the premise building.
3. Notices shall be clearly displayed requesting patrons to leave the premises quietly

Conditions in consultation with the Responsible Authorities

Conditions agreed with Met Police Licensing

1. 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. 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.
2. An Incident Report book is to be kept and used to record all incidents of crime and disorder as well as any incidents of note. This book is to be made available on request to any Police officer or representative of a responsible authority.

Additional Conditions:

1. That there should be an extra waste disposal bin for the rubbish; and
2. That there should be visible signage stating that Patrons and Riders should park legally and should not leave their engines idling.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

There were no applications requiring extensions.

The meeting ended at 21.35 p.m.

Chair, Councillor Dan Tomlinson
Licensing Sub Committee