

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 31 AUGUST 2010

**COUNCIL CHAMBER, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Peter Golds (Chair)

Councillor Ohid Ahmed
Councillor Zara Davis

Officers Present:

Paul Greeno	- (Senior Advocate)
Nick Kemp	- (Licensing Officer)
Kerry Mure	- (Senior Lawyer)
Caroline Chalklin	- (Committee Officer, Chief Executives')
Simmi Yesmin	- (Senior Committee Officer)

Applicants In Attendance:

Ian Moseley	- (Trading Standards)
Andy Jackson	- (Metropolitan Police)
Ian Wareing	- (Environmental Health)
Peter Matysik	- (Resident)
Donald Mullis	- (Resident)
Ryan Green	- (Resident)

Objectors In Attendance:

Ibrahim Aytac	- (Mile End Food & Wine)
Hasan Cetin	- (Mile End Food & Wine)
Peter Glazebrook	- (5B Urban Bar)
Mark Slankard	- (5B Urban Bar)
Lorraine Slankard	- (5B Urban Bar)

The Chair welcomed everyone to the meeting, ensured that introductions were made and then briefly outlined the procedure of the meeting. He announced that at 7.53pm he would adjourn the meeting for a comfort break.

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTEREST

Councillor Ohid Ahmed, declared a personal interest in agenda item 5.1, application for review of the premises license for Cost Cut, 219 East India Dock Road, London E14 0ED on the basis that the premises was in his ward.

3. RULES OF PROCEDURE

The Rules of Procedures were noted.

4. UNRESTRICTED MINUTES

The unrestricted minutes of the Licensing Sub Committee meeting held on 3rd August 2010 were agreed as a correct record of proceedings.

5. ITEMS FOR CONSIDERATION**5.1 Application to Review the Premises Licence for Cost Cut, 219 East India Dock Road, London E14 0ED (LSC 20/011)**

The application was **ADJOURNED** at the request of the Premises License Holder. Neither the applicant nor the person making representations in support of the application objected to the request.

5.2 Application to Review the Premises Licence for Mile End Food & Wine, 93 Burdett Road, London, E3 4JN (LSC 21/011)

At the request of the Chair, Mr Nick Kemp, Licensing Officer, introduced the report which detailed the review application for Mile End Food & Wine, 93 Burdett Road, London E3 4JN. It was noted that the review had been triggered by the Metropolitan Police.

At the request of the Chair, Mr Andy Jackson, Metropolitan Police explained that the review related to a series of operations run jointly between the Police, Trading Standards and Customs & Excises. It was noted that Mile End Food & Wine was visited on 21st April 2010 and on entry to the premise, a total of 38.5 litres (55 bottles) of counterfeit mixed spirits and 136 bottles of non duty paid mixed wine were found on the premises these were then seized. There had been no receipts produced for the goods at the time of seizure and when the Premises Licence Holder was questioned about where he had brought the goods from, he confirmed that he had brought the goods from a door to door salesman who came to the shop in a white van.

It was noted that the goods seized amounted to a total duty evaded of £826.32. Mr Jackson referred Members to the DCMS guidance which stated that the sale of smuggled tobacco and alcohol should be treated particularly seriously. He urged members to revoke the license in this instance in order to send a powerful message to the premises and to all other off licenses in the area.

Mr Ian Moseley, Trading Standards, explained that having examined records held by Trading Standards Services, that there were three allegations received between 09/01/2008 to 27/05/2009 that underage sales of alcohol was taking place from the premises however five test purchase attempts had been correctly refused from 2008 to date. He explained that counterfeit and non duty paid alcohol not only represented a loss to the national revenue from the failure to pay duty, that it also introduced a health risk as the goods may have been defective or contain contaminants. He then detailed some conditions to restrict the purchase of alcohol if Members were not minded to revoke the license.

Mr Ibrahim Aytec, legal representative for the Premises License Holder urged Members not to grant revocation of the licence. He explained that there had never been any complaints or problems since the shop was opened in 2007 and had five test purchases which were correctly refused. Mr Aytec stated that the Premises Licence Holder acknowledged his mistake for purchasing the goods and welcomed the conditions suggested by Trading Standards. Mr Aytec concluded by highlighting the financial effects the business would have if revocation was granted.

In response to questions it was noted that all the alcohol was bought in one purchase, the Premises Licence Holder did have a receipt for the goods, however can no longer find it. In response to further questions, the Premises License Holder explained that since the review application he had changed his purchasing methods and was now only buying stock from wholesalers and not purchasing on the premises. It was also confirmed that it was the Premises Licence Holder who had purchased the alcohol.

The Chair advised that the Sub Committee would at 7.00pm adjourn to consider the evidence presented. Members reconvened at 7.10pm. The Chair reported;

After hearing representations from both parties, Members reached the decision to GRANT the application and grant the revocation of the licence for sale of alcohol. Members noted the guidance that they were referred to by Metropolitan Police in particular the guidance issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003.

Members acknowledged that five test purchases attempts had been correctly refused. They noted, however that a large amount of counterfeit and smuggled alcohol had been found within the premises and were very concerned about the associated health risks with counterfeit alcohol being made available for purchase at the premises.

Although the licensee did admit to purchasing the goods, he was unable to provide receipts or any proper justification for not being able to provide such receipts. It was noted that it was a large amount of alcohol which were non duty paid, thus affecting the overall revenue of the country.

Members felt that they heard no specific reassurances from the Licensee to satisfy them that appropriate steps would be taken and followed and that they could not be satisfied that the Licensee would promote the licensing objectives of crime and disorder. Therefore Members felt that there was no other option but to revoke the sale of alcohol license.

RESOLVED

That the review application for the premises license for Mile End Food & Wine, 93 Burdett Road, London E3 4JN be **GRANTED** with the revocation of the license for the sale of alcohol.

5.3 Application to Review the Premises Licence for The Urban Bar, 27 Three Colt Street, E14 8HH (LSC 22/011)

At the request of the Chair, Mr Nick Kemp, Licensing Officer, introduced the report which detailed the review application for the premises licence for the Urban Bar, 27 Three Colt Street, E14 8HH. It was noted that the review had been triggered by the police and Environmental Health.

At the request of the Chair, Mr Andy Jackson of the Metropolitan Police explained that there had been complaints to the Environmental Health Section from residents. Mr Slankard (the licensee) was in contact with Mr Wareing from Environmental Protection, and therefore was aware of the problems.

Anti-social behaviour had been observed outside the bar, this included a patron urinating in the street, and shouting; measures discussed to reduce this were:

- Adequate door staff
- Control over the numbers of smokers
- Control over taxis collecting home going patrons

Mr Slankard disputes that there is noise caused by his patrons.

Mr Jackson continued, stating that police officers had undertaken observation of the premises. Mr Jackson opposed 'drinking up' time, in his opinion patrons would merely order larger drinks to extend the time of drinking.

Mr Wareing said that he felt a sound limiter was required in the bar.

One of the applicants, Mr Matysik, said he had moved to Three Colts Street in August 2009. That there were problems with the Urban Bar was evident from the start. Nightly loud music was both heard and the vibrations of it felt. The landlord appeared in breach of his licensing hours. Mr Matysik finally complained to Environmental Protection. Since the last review, Tuesday, Wednesday and Thursday nights were sheer hell.

Mr Mullis, another applicant, said there was evidence of noise nuisance and anti-social behaviour in what was a residential street. The licence was applied for in 2005, and was badly drawn up. Mr Mullis sought a mutually agreeable consensus. At present the Urban Bar attracts patrons from 11pm to 1 am, and Mr Mullis understood that 50% of the takings were derived from Friday and Saturday nights from 12 midnight to 2 am. Mr Mullis felt there was irresponsible sale of alcohol, and late night customers were noisy arriving and leaving.

Mr Mullis felt that Mr Slankard was only just coming round to dealing with the noise. Initially a banner was put up warning or threatening that there was licensed premises. Since then there were always glasses and bottles, vomiting, slamming of taxi doors until the early hours of the morning. The Bar was surrounded by residential blocks.

Mr Green, another applicant, said the Urban Bar was a community asset; the issue was with late night noise (loud noise, screaming and violence), not the existence of the bar.

Mr Glazebrook, solicitor for the objector, said that Mr Slankard had been running the public house for 14 years, and the surroundings had changed more than the Bar. The Urban Bar was converted in 2005, and there had been no problems with John Lauder House. Unfortunately, the newly built Gateway House was cheek by jowl with the Bar. Members should note that the local MP and the Vicar of St Ann's Limehouse wrote in support of the Bar. The Bar was run by a high spirited landlord, and was independent of the chains of licensed premises. Gateway House has 18 households, only 4 of which object to the Bar. The review had started on the wrong foot with crime and disorder; however there were only minor breaches of licensing conditions, for example, a doorman not wearing his badge and a variation in the opening hours. Mr Slankard will agree to install a sound limiter.

A number of conditions had voluntarily been introduced to reduce the problems experienced by the Bar's neighbours, and this had reduced the problems. The Urban Bar was a community public house, and the business was at risk if the opening hours were curtailed.

Mr Slankard said that taxis which double parked and hooted late at night were indulging in criminal behaviour. The Urban Bar could not be blamed for this as other residents of the area used taxis and minicabs at night. Some of the properties in the area were let to recovering alcoholics, who sometimes drank in the street, causing problems that could be attributed to the Bar. Providence Row Housing Association had since applied new rules to their tenants. Mr Slankard said that the Urban Bar had a working lavatory, there was no need for any patron to use the street as a urinal. The Urban Bar now has 2 doormen to prevent glasses being taken into the street. It was unfortunate that anti-smoking legislation put smokers outside a sound proofed public house. Mr Slankard said he wanted to be a responsible landlord and get on with his neighbours.

Mrs Slankard said the Bar's customers often were shift workers, and wanted to go to a bar for late night drinks. There was no need to have glasses or bottles in the street.

Ms Walsh, a supporter, said that she lived next to the Urban Bar, and was aware of its opening hours, but had not experienced any problems from patrons.

Mr O'Neill, a supporter, said that he worked shifts, and lived next to the Urban Bar with his two young children. He felt people could choose not to live near public houses if they didn't want the noise.

Mr Klein, a supporter, who lived in Gateway House, said that people should expect some noise, the Urban Bar is a public house, but the disturbance is not enough to stop him sleeping. He had been told about the opening hours before he moved in. The people who complained should be rehoused.

Mr Slankard said that the opening hours made a difference to his takings; there were no customers during the day. If the Bar shut at 11pm, it would lose the most profitable time of day.

In response to a question, Mr Jackson said that residents of Providence Row Housing Association were on the street and in the park in the day, but not in the small hours; the anti-social behaviour then must be the patrons of the Urban Bar.

In response to Councillor Golds, Mr Green (applicant) said that the number of people outside the bar was not the point, the closing hours were the crucial issue. However, it would be helpful if the number of people outside was reduced.

Mr Matysik said that he lived in Block 7 right next door to the Bar, he had no choice over the location of his flat. He just needed people to be quieter. Mr Mullis said that a closing time of 2am would not make much difference.

The Chair said that CCTV evidence showed there had been a lock-in: Mr Slankard said it had just been bar staff and friends.

In response to a question, Mr Glazebrook said that movements in the public house may not be the customers. Mr Slankard said that allowing 'drinking up time' allowed for a quiet exodus. There was confusion over the closing time, which was the same time as alcohol could no longer be sold.

In response to questions, Mr Slankard said he had originally wanted a closing time of 3pm, but had compromised at 2pm, and the sale of alcohol ceased at 1pm.

The Chair advised that the Sub Committee would adjourn at 9pm to consider the evidence presented. Members reconvened at 9.10pm. The Chair reported:

Members had heard from all parties and were grateful to all parties for trying to reach agreement prior to the meeting as it had helped narrow the issues. Members considered that they were satisfied that there was both public nuisance and crime and disorder arising from the premises although they accepted that regarding the latter it was disorder as opposed to crime.

On balance, it was considered that the review application could be granted but in part only with a reduction in hours and with additional conditions.

RESOLVED

That the review application for the premises license for 5B Urban Bar, 27 Three Colt Street, London E14 8HH be **GRANTED in part** with conditions.

Sale of Alcohol, Late Night Refreshments, Regulated Entertainment (including the provision for dancing and recorded music)

Sunday to Wednesday from 11:00 hours – 00:00 hours (midnight)
Thursday to Saturday from 11:00 hours – 01:00 hours (the following day)

Hours Premises is Open to the Public

Sunday to Wednesday from 11:00 hours – 00:30 hours (the following day)
Thursday to Saturday from 11:00 hours – 01:30 hours (the following day)

Amendments to existing Conditions

Condition 4 - Two door supervisors are to be on duty after 21:00 hours on Thursday to Saturday inclusive.

Condition 7 – At all times the premises are open to the public a holder of a personal license will be present on the premises.

Condition 16 – The beer garden will be emptied of customers and closed to the general public at 22:00 hours, staff will be allowed to use this area to smoke after 22:00 hours.

Condition 17 – Deleted.

New Conditions

1. A CCTV camera system is to be installed covering both internal and external to the premises.
2. The CCTV recordings are to be maintained for 30 days and to be provided upon request to either a Police Officer or an officer of a Responsible Authority.
3. At all times the premises is open, a person who can operate the CCTV system must be present on the premises.

4. All customers are required to leave the premise by closing time and only staff or the management of the premises may remain.
5. No drinks (either alcoholic or soft) sold within the premises are to be consumed on the street outside the premises
6. A noise limiter is to be installed and a level to be agreed with Environmental Health. If an agreement cannot be reached it will need to come back to a Licensing Sub Committee for final determination.
7. After 21:00 hours, no more than 8 customers to be permitted to smoke outside the premises at any one time.

6. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT

There was no other business considered urgent by the Chair.

The meeting ended at 9.20 p.m.

Chair, Councillor Peter Golds
Licensing Sub Committee