

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 5.30 P.M. ON TUESDAY, 30 JUNE 2015

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

Members Present:

Councillor Peter Golds (Chair)
Councillor Khaled Uddin Ahmed
Councillor Rajib Ahmed

Officers Present:

Mohshin Ali	– (Senior Licensing Officer)
Alex Lisowski	– (Licensing Officer)
John McCrohan	– (Trading Standards & Licensing Manager)
Gurwinder Olive	– (Senior Lawyer, Legal Services)
Simmi Yesmin	– (Senior Committee Officer, Democratic Services)

Applicants In Attendance:

Teerun Ramlochun	
Yundan Liu	- (Item 3.2)
	- (Item 3.2)

Objectors In Attendance:

PC Alan Cruickshank	
Alan Aylott	- (Item 3.1 & 3.2)
Ibrahim Kocager	- (Item 3.1)
	- (Item 3.1)

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

There were no apologies for absence.

2. RULES OF PROCEDURE

There were no declarations of disclosable pecuniary interest.

3. ITEMS FOR CONSIDERATION

**3.1 Application to Review the Premises Licence for Best Kebab, 275
Commercial Road, London E1 2PS**

Mr Aylott for the licensee requested confirmation that the Sub-Committee had received proposals which he hoped would narrow the issues for the Members. It was confirmed that they had.

At the request of the Chair, Mr Alex Lisowski, Licensing Officer, introduced the report which detailed the application for a review of the premises licence for Best Kebab, 275 Commercial Road, London E1 2PS. It was noted that the review had been triggered by Trading Standards and supported by the Metropolitan Police.

At the request of the Chair, Mr John McCrohan, Trading Standards and Licensing Manager explained the concerns which led to the review. Mr McCrohan explained that there were also concerns of dealing in illicit tobacco which was a serious crime as referenced in 6.11 of the Licensing Policy. There were also a number of breaches of legislative requirements at the premises, including non-display of the premises licence, no CCTV cameras in working condition and trading outside licensable hours.

He said that good management of the premises and the promotion of licensing objectives was crucial to any business. Therefore Mr McCrohan suggested a reduction in opening hours as later opening hours posed a greater risk and potential for anti-social behaviour and raised more concerns about responsibility of management.

Members then heard from PC Alan Cruickshank, Metropolitan Police, he said that he supported the Trading Standards review and it was clear from visits made at the premises by PC Brendan O'Rourke that the Premises Licence Holder was often exceeding opening hours. He then referred to page 64 of the agenda which detailed the number of incidents at the premises including a drunk assault where there was no CCTV footage available to investigate and another incident in December 2014 at 02:52 hours when the shop should have been closed. He also suggested a reduction in hours to help promote the licensing objectives as all the incidents had occurred during the early hours of the morning. PC Cruickshank suggested a closing time of 1am Friday and Saturday and 12 midnight on Sunday to Thursday.

At the request of the Chair, Mr Alan Aylott, Representative for Mr Ibrahim Kocager, Premises Licence Holder, asked Members to note the conditions offered which was tabled at the meeting such as removing the sale of alcohol from the licence and conditions to prevent illicit purchase of alcohol or tobacco.

Mr Aylott said that Mr Kocager had had the premises for 10 years and when the licence was first granted he had been under the assumption that he could sell food any hour but the licensable hours were only for the sale of alcohol.

He noted the two out of hours sales but said that there had been no prosecutions. He advised that in accordance with section 11 of the Home Office Guidance the sub-committee were not here to determine on guilt. The purpose of the hearing is to address the issues.

It was noted that the summary licence was now correctly displayed at the premises and a new CCTV camera system had been installed and was now in place and in working order. He stated that the cigarettes were bought for personal use and there was no evidence that they were sold to underage children. He said that there was no need to remove the Designated Premises Supervisor (DPS) as they have offered to remove the sale of alcohol and therefore a DPS was not required. He said that since the review has been triggered, there have been no issues/complaints at the premises. Mr Aylott said that Mr Kocager accepts the error on his part but there have been no problems for the past 5 months once he has been made aware. He also acknowledged buying smuggled cigarettes and notes it's a serious offence but mentioned that there had been no prosecutions. Mr Aylott assured Members that this would not happen again and concluded that the proposals made were sufficient to deal with the concerns raised.

In response to Members questions, the following was noted;

- That the sale of alcohol would be removed.
- That CCTV cameras were now in working order, there were 4 cameras and CCTV footage would be retained for 31 days.
- That licensing objectives had been breached, therefore seeking a reduction in hours.
- That there were concerns that Mr Kocager has had a licence for 10 years and didn't know what type of licence he had.
- That cigarettes were brought for personal use.
- That there was no evidence that there had been sale of cigarettes.
- That there had been no prosecutions to date.
- That the premise was fully compliant now.

Members retired to consider their decision at 6.50pm and reconvened at 7.10pm.

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.

Consideration

Each application must be considered on its own merits. The Sub Committee had carefully listened to all interested parties. After careful consideration Members did not accept that the Licensee had misunderstood or misread the License conditions. The Chair of the sub-committee advised that the Members were concerned by the matters raised by the Police and Trading Standards and the possibility that the matters could lead to crime and disorder. Members did however note the Licensee's efforts in alleviating the

concerns of the responsible authorities by offering to remove the sale of alcohol as a licensable activity and any resulting conditions relating to the sale of alcohol and also the imposition of an additional condition regarding the purchasing of tobacco or alcohol products.

In reaching their decision Members noted the advice given by the Police regarding opening hours which was to reduce late night opening by two hours a night Monday to Saturday and by one hour on a Sunday but felt that in light of the removal of alcohol this recommendation would not be followed.

The Chair advised that the Sub Committee had decided to accept the conditions as offered by the Licensee and to also grant the review application in part by reducing the opening hours by one hour per night in order to address the concerns raised in relation to the licensing objective of “the prevention of crime and disorder”.

Decision

Accordingly, the Sub-Committee unanimously –

RESOLVED

That the application for a Review of the Premises Licence for, Best Kebab, 275 Commercial Road, London E1 2PS be **GRANTED in part**, with conditions.

Removal of the sale by retail of alcohol as a licensable activity

Amendments to Conditions on Annex 2

Removal of conditions 1 -4

The Provision for Late Night Refreshments

Sunday to Thursday until 01:00 hours

Friday and Saturday until 02:00 hours

Hours premises are open to the public:

Sunday to Thursday 12:00 hours to 01:00 hours

Friday and Saturday 12:00 hours to 02:00 hours

Additional Conditions at Annex 3

The premises license holder shall ensure that no alcohol or tobacco products will be purchased from sellers calling to the shop; and

The premises licence holder shall ensure that all receipts for goods bought include the following details:

- a) The seller's name and address;
- b) The seller's company details, if applicable;
- c) The seller's VAY details, if applicable

And copies of these documents should be made available to officers from responsible authorities upon reasonable request.

3.2 Application for a New Premises Licence for Tomorrow Bar & Restaurant, 132 Bethnal Green Road, London, E2 6DG

At the request of the Chair, Mr Alex Lisowski, Licensing Officer, introduced the report which detailed the application for a new premises licence for Tomorrow Bar and Restaurant, 132 Bethnal Green Road, London E2 6DG. It was noted that objections had been received by the Metropolitan Police and the Licensing Authority.

At the request of the Chair, Mr Teerun Ramlochun, Legal Representative for the Applicant stated that they already had a licence till 10.30pm and wanted an extension till 1am. He said that the objection from the Police was because some of the information was missed out from the application.

He said that they were not asking for exceptional hours, only hours that other premises have in the area. He said that the notice went up and there were no objections from local residents and that his client had demonstrated what he would do to promote the licensing objectives in his application. He stated that he did not see how the licence would result in more people staying longer in the cumulative impact zone given the number of other premises in the area. Mr Ramlochun proposed that the applicant would appoint two SIA door staff, would promote responsible drinking, he also mentioned that they would not have any offers or discounts on the drinks. He said the premises itself had a licence in 2008 and was trading under a different company as a karaoke bar and restaurant and there were no noise complaints therefore believed the premises to be sufficiently sound proofed. He said that the manager of the premises had 6-7 years of experience working in China Town.

Mr Ramlochun concluded that it would be unfair if the hours applied for were not granted as all competitors had late hours and there had been no complaints from the previous licence. He said that there were CCTV cameras in place and would comply with everything the Police had asked for.

Members then heard from PC Alan Cruickshank, Metropolitan Police, he explained that the Council had adopted a saturation policy/cumulative impact policy for the Brick Lane area. This policy was adopted due to the concerns about the number of licensed premises in such a small area and the resulting number of ASB calls and the potential for disorder. He explained that in regards to the policy an application would be refused unless the applicant can

demonstrate there will be no negative cumulative impact on one or more of the licensing objectives.

He said that the availability of alcohol all week until 01:00 hours would mean more people staying for longer within the CIZ with the potential for ASB and violence. He stated that he was not sure that the applicant had explained or demonstrated that there would be no negative impact. He said there was no mention of CCTV cameras in the application and had only heard of the SIA staff at the meeting today. PC Cruickshank questioned whether it was a bar or restaurant and suggested reduced hours, 22:30 hours Sunday to Thursday and 23:00 hours on Friday and Saturday and the conditions on page 139 of the agenda.

Members then heard from Mohshin Ali, Licensing Authority, he said the premise did have a licence in 2008 but the company dissolved in 2011 and therefore there was currently no premises licence in place and that this was a new application and not a variation application as mentioned by Mr Ramlochun. He believed the application was made for a bar as there was no mention of late night refreshments, only sale of alcohol and regulated entertainment which were elements of a bar. Mr Ali also supported the reduced hours suggested by the Police if Members were minded to grant the application.

In response to Members questions the following was noted;

- That it was a restaurant and not just a bar
- That the capacity of the premises was for 50-60 people
- That the applicant missed the late night provisions from the application form.
- That there were concerns that the premises was trading without a licence.
- That the Police had made a referral to the Fire Authority due to concerns in the basement area.

Members retired to consider their decision at 7.15pm and reconvened at 7.20pm.

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 the Brick Lane Cumulative Impact Policy.

Consideration

Each application must be considered on its own merits and after careful consideration the Chair stated that the Sub Committee had carefully listened to both the Applicant's Representative and submissions from the Police and Trading Standards. Members did not think it was appropriate to grant the

application as Members felt that it would undermine the Licensing Objectives of crime and disorder and prevention of public nuisance.

In making the decision Members noted that the premises were within the area of the Special Cumulative Impact Zone. It was noted that a Cumulative Impact Policy was adopted by the London Borough of Tower Hamlets on 18 September 2013. The policy provides that where the premises are situated in the cumulative impact zone and a representation is received, the licence will be refused. The effect of this special Cumulative Impact Policy is to create a rebuttable presumption. The applicant can rebut the presumption to refuse if they can demonstrate that their application for a new licence premises would not undermine one of the four licensing objectives. The applicant is expected to show this through the operating schedule and with supporting evidence (if appropriate) that the operation of the premises will not add to the cumulative impact already being experienced.

The Committee recognises that the cumulative impact of the number, type and density of licensed premises in a given area may lead to serious problems of nuisance and disorder. However, the policy does not act as an absolute prohibition on granting or varying new licences in the Cumulative Impact Zone. The Members considered that in this instance the applicant had not satisfactorily addressed the rebuttable presumption as Members had noted that the application was on the basis of an extension of hours, despite there being no existing license, that the applicant was unable to demonstrate clearly whether the premises was to be a restaurant or a bar, there was not a sufficiently robust operating schedule to demonstrate the activities alleged and it was noted that despite stating that the premises was a restaurant there was not application for late night refreshment, despite the request for opening hours, alcohol and entertainment to 1am.

Decision

Accordingly, the Sub-Committee unanimously –

RESOLVED

That the application for a new premises licence for, Tomorrow Bar & Restaurant, 132 Bethnal Green Road, London, E2 6DG be **REFUSED**.

4. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT

There was no other business considered urgent.

The meeting ended at 7.25 p.m.

Chair, Councillor Peter Golds
Licensing Sub Committee

