

**LONDON BOROUGH OF TOWER HAMLETS****RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE**

**HELD AT 6.30 P.M. ON TUESDAY, 13 OCTOBER 2015  
THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE  
CRESCENT, LONDON, E14 2BG**

**Members Present:**

Councillor Peter Golds (Chair)  
Councillor Candida Ronald (Member)  
Councillor Clare Harrisson (Member)

**Officers Present:**

Kathy Driver – (Principal Licensing Officer)  
Gurwinder Kaur Olive – (Senior Lawyer, Legal Services)  
Elizabeth Dowuona – (Senior Committee Officer,  
Democratic Services)

**Applicants In Attendance:**

Tariq Sortaz - Applicant (Item 4.1)  
Anna Mathias - Legal Representative (Item 4.1)  
Leo Charalambides - Legal Representative (Item 4.2 & 3)  
PC Alan Cruickshank - Metropolitan Police (Item 4.2 & 3)  
PC Brenden O'Rourke - Metropolitan Police (Item 4.2 & 3)  
John McCrohan - Trading Standards (Item 4.2 & 3)  
Andrew Heron - Licensing Authority (Item 4.2 & 3)  
Jon Shapiro - Resident Association (Item 4.2 & 3)

**Objectors In Attendance:**

PC Alan Cruickshank - Metropolitan Police (Item 4.1)  
Andrew Heron - Licensing Authority (Item 4.1)  
Sham Uddin - Legal Representative (Item 4.2 & 3)  
Juhel Ahmed - Director, (Aladin) (Item 4.2 & 3)  
Sabir Ahmed - Director, (Nazrul) (Item 4.2 & 3)

**1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST**

There were no declarations of disclosable pecuniary interest.

**2. RULES OF PROCEDURE**

The rules of procedure were noted.

### **3. MINUTES OF THE PREVIOUS MEETING(S)**

The minutes of the meetings held on 28<sup>th</sup> July, 18<sup>th</sup> August, and 1<sup>st</sup> September 2015 were agreed and approved as correct records of those proceedings.

### **4. ITEMS FOR CONSIDERATION**

#### **4.1 Application for a Variation of a Premises Licence for KFC, 84 Whitechapel High Street, London E1 7QX**

##### 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 as well as the Cumulative Impact Policy adopted by the Council in 18<sup>th</sup> September 2013.

##### 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 interested parties as well as considered all the representations, oral and written, with particular regard to the licensing objectives of the prevention of crime and disorder, public safety and the prevention of public nuisance.

Members noted, as correctly identified by Ms Mathias, that where the premises are situated in the Cumulative Impact Zone, a rebuttal presumption was created. In order to rebut the presumption of refusal, an applicant needed to demonstrate that the premises did not undermine any of the licensing objectives.

Of particular note was the requirement to demonstrate through the operating schedule with supporting evidence that the premises would not add to the cumulative impact already being experienced in the area.

Members noted the applicant's submission in respect of the good management and accepted good practices by the KFC franchise but felt that the franchisee failed to draw relevant parallels to the current case or situations where they have effectively run premises in an area or cumulative impact or in a busy night-time economy with a view to demonstrating that there would be no impact.

Members noted that the premises were close to transport links. Their general view, however, was that the transport links would not necessarily lead to early dispersal, but rather, attract commuters, delaying their departure from the area.

Members considered representations from the Metropolitan Police and Licensing Authority that an extension to 03:00 hours was not acceptable for a

takeaway restaurant in such a busy area. They accepted on the balance of probabilities that there was a greater likelihood of anti-social behaviour if the premises were open later.

The Committee noted gaps in the application pointed out by the Licensing Authority representative, Andrew Heron.

It was also noted that there were only two licensed premises in the vicinity one of which was a restaurant and the other a public house, neither were a takeaway. A third premises, referred to by the Applicants, which was a takeaway, was noted as not having a licence.

In view of the evidence presented, Members were persuaded that the evidence from the applicants did not go far enough to demonstrate that there would be no impact in the Cumulative Impact Zone and that the concerns of the Metropolitan Police and Licencing Authority were founded.

Members however considered that an extension until midnight on weekdays would be acceptable and were minded to grant the application, however in part.

During the course of the hearing the conditions offered by the applicant were discussed, in particular the conditions under the "prevention of public nuisance". The following amendments were noted:

- Conditions 3 and 4 were identical and condition 4 was to be deleted.
- Condition 6 should read "deliveries shall not" as opposed to "deliveries shall only"
- Condition 8 should read "open to the public" not "on the public".
- Conditions 10 and 12 had been addressed by condition 11 and therefore could be deleted they were unnecessary.

Accordingly, the Sub-Committee unanimously

#### **RESOLVED –**

1. That the application for a variation of a Premises Licence for KFC, 84 Whitechapel High Street, London E1 7QX be **GRANTED IN PART**.

#### **Hours premises are open to the public:**

- Monday to Friday, 10:00 hours to 00:00 hours
- Saturday, 10:00 hours to 00:00 hours
- Sunday, from 10:00 hours to 23:00 hours

#### **Provision of late night refreshment**

- Sunday to Thursday, 23:00 hours to 00:00 hours

- Friday and Saturday, 23:00 hours to 00:00 hours
2. That the licence hereby granted be subject to the following conditions proposed by the applicant:

### **Prevention of Crime and Disorder**

1. Staff training will include training on dealing with violence, aggression and confrontation and crisis management.
2. CCTV cameras shall cover both the inside and outside of the premises, with 24 hour recording, and shall be kept in good working order.
3. CCTV recordings to be kept for a minimum of 30 days and made available on request to either a police officer or officer of another responsible authority.
4. At all times the premises are open to the public, a member of staff capable of operating the CCTV system shall be present.
5. A panic button shall be installed at the premises, linked to an external security firm.
6. Cash control procedures will be in force at the premises and staff will be trained in these.
7. There shall be no seating provided at the premises.
8. The maximum number of persons permitted on the premises at any time shall be 15, excluding staff.
9. A team member shall be appointed for every shift to carry on such liaison with police as is necessary.
10. A sign shall be displayed at the premises warning customers about the need to be aware of pickpockets and bag snatchers, and to guard their property.
11. An incident log shall be kept and maintained at the premises, in which shall be recorded any incident of crime or disorder, any visits by the Licensing or any Responsible Authority, and any other matters relating to the safe and orderly operation of the premises.

### **The Prevention of Public Nuisance**

1. Staff will use best endeavours to encourage customers to leave the premises promptly upon being served and to disperse quickly from the immediately surrounding area.
2. A sign shall be prominently displayed at the premises encouraging customers to respect the needs of local residents and to leave the premises and the surrounding area quickly and quietly.
3. A sign shall be prominently displayed at the premises asking customers to use bins inside and outside to dispose of rubbish.
4. Waste collection shall be by a designated contractor and all waste shall be properly prepared and presented for collection no more than one hour prior to the designated collection time
5. Deliveries to and collections from the premises shall not take place between 23.00 and 08.00 hours on any day.

6. Staff will patrol the pavement and gutter outside, and the alleyway adjacent to, the premises at least every four hours and clear them of any litter.
7. The premises licence holder shall ensure, insofar as this is within its control, by the affixing of lights to the walls of its demise or otherwise, that the alley adjacent to the premises is adequately lit at all times the premises are open to the public without causing a nuisance to adjacent premises.
8. No music shall be played on the premises where the music is audible by any customer.
9. All doors and windows at the premises shall be kept closed save for the access and ingress of patrons.
10. The premises shall be regularly inspected by a reputable pest control company.

#### **The Protection of Children from Harm**

- I. No children under 12 unaccompanied by an adult shall be allowed on the premises after 23.00 hours on any day.

#### **4.2 Application to Review the Premises Licence for Aladin Restaurant, 132 Brick Lane, London E1 6RU**

Please note that Item 6 and 7 were considered together as agreed by all parties in view of the fact that they were linked and managed by the same operators and management.

##### The Licensing Objectives

In considering the application for a review of the premises licence by the Metropolitan Police, 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.

##### The Review

Members heard that both reviews at Nazrul and Aladin were triggered by the Metropolitan Police and that both reviews sought revocation of the respective licences. The reviews were supported by Trading Standards, the Licensing Authority and a local residents' association, Spire. The review arose after two separate incidents over the Bank Holiday weekend of 22 - 25 May 2015 and an accumulation of past incidents involving one or both of these premises.

##### 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 interested parties as well as all the representations oral and written with particular regard to the licensing objective of the prevention of crime and disorder and public safety.

Members considered detailed verbal evidence on behalf of the Metropolitan Police. Mr Charalambides made representations that any licencing application should be considered in light of the location. As per the Court of Appeal case of *Hope & Glory [R (Hope and Glory Public House Limited) v City of Westminster Magistrates' Court [2011] EWCA Civ 31]* licensing decisions involved an evaluation of what was to be regarded as reasonably acceptable in the particular location and he stated that it ought to be noted that the premises were in an area of stress and saturation which had led to the Brick Lane Cumulative Impact Zone.

It was submitted that all of the issues and all the history are relevant including the matters in the Licensing Officer's covering report, referred to as not relevant; that in seeking to promote the prevention of crime and disorder the management had failed and sharp practices have led to a man being stabbed, bottled and having a punctured lung.

It was submitted that the consideration was not just the licensable activity but the operation of the premises. To that end it was noted that the same management remained in place and nothing had been done to address issues.

It was stated that Licensing should be considered in the wider public interest as per the Home Office section 182 guidance.

Of particular note within the police representations was evidence that police faced little or no co-operation in getting evidence from licensees and their staff when such incidents occurred and that they had taken no responsibility. Complaints documented unveiled incidents going back to at least 2013 of threatening and violent behaviour at the premises.

Members considered for the Licensees the arguments put forward that despite the history there have been no arrests and many of the fights took place before 11.00pm and therefore were not to do with the licence for late night refreshment. It was submitted that allegations were not linked to the premises and that in any event conditions could be considered to alleviate concerns and these were at Members disposal in place of a revocation. Mr Sham Uddin for the Licensees suggested security personnel at the door and CCTV inside the premises.

In respect of the incidents specifically it was stated that in the first incident a member of the public clearly punched a waiter from Aladin which started the fight and that as such the staff were 'victims' and not aggressors – that this was a case of self-defence. In respect of the second incident, that the fight was started by others at a time when both restaurants were closed and therefore was not linked to the premises despite staff from the premises admitting to being involved.

Members viewed carefully CCTV footage in relation to grievous bodily harm incidents on 24 and 25 May 2015.

CCTV showed that on 24 May 2015 a couple with a young child being carried walk passed the door for Aladin, just as a large group spill out of the door of the restaurant pushing and shoving. The Member attention was drawn to the fact that the family quicken their pace then cross the road to get clear of the fighting and escape by a few feet and a few seconds. The Members attention was also drawn to the fact that a customer appeared to punch one of the waiters from the restaurant; however there was no evidence as to what occurred inside the restaurant to start the fight.

The fight escalated and spilt in to a side street. At one point 6 waiters in black coloured shirts could be seen kicking and beating a man backed up against a closed shutter. The licensee's representative asserted that the waiters were from a number or restaurants and not just his client's waiters.

A couple of the Ahmed brothers, as licensees, were seen on the CCTV footage. Although they were not actively involved in any violence, they were at the scene as spectators and witnessed their staff outside their restaurant fighting with customers and members of the public. Their presence during this incident was not denied by the licensees or their representative.

The CCTV footage showed that on 25 May 2015 a fight broke out a block south of Aladin and Nazrul shortly before 12.30am. The fight moved up the road and waiters from a number of restaurants become embroiled in the fight. Both Nazrul and Aladin were closed to the public by this time, closing at midnight. The footage showed that the fight ended with 5 individuals beating a man, 3 of whom were waiters in black coloured shirts positively identified by police as being employees of Aladin. A man was stabbed twice with a knife by waiters and cut with a broken bottle. When the attackers walked away there was an exchange of an object between two of the waiters. One waiter then disposed of the aforesaid object behind a pile of black refuse sacks on Woodseer Street.

Mr Uddin stated that contrary to the police account his instructions were that only one staff member from Aladin was involved and that this was the person who had been arrested and charged. In addition he stated that the fight was clearly started by a man on a rampage who had a stick and hit people indiscriminately and as such his clients were not responsible. He accepted that one waiter had been arrested and charged for the stabbing and that he had admitted the stabbing and the handing over of the knife used in the stabling to another man as viewed on the CCTV footage.

The Sub-Committee were of the opinion that the police presented a convincing case and that they were in a prime position to advice on the night-time economy and problem premises. It was accepted, as submitted for the police, that the same management was involved in the two neighbouring premises and the reality was that the same "controlling mind" was behind the two premises and they were intrinsically linked.

The Members were concerned at all the differing incidents connected with the premises over a significant period of time. They were further concerned that nobody came forward to assist the police and there has been no active co-

operation – including the incident of 24 May when the Licensees were seen witnessing their staff, who remain employed, involved in a fight and did not interject to stop it and did not contact the police.

There were clearly two incidents during the May bank holiday involving staff. It was not disputed that the Ahmed brothers were in the first CCTV footage shown yet they (or their management) did not see fit to notify the police and as such clearly failed in promoting the objectives of crime and disorder.

Members felt that it was self-evident that there was insufficient conflict management and recording of incidents. This was highlighted by the answers given by Sabir Ahmed to Councillor Harrison when questioned about staff training and the compliance of the licensee with their own duties to staff and recording of incidents. It was also noted that despite being asked what mitigating actions the restaurants had taken there was only a partial answer given. Whilst the Members appreciated that there was now an incident log implemented and there was a letter dated 8 October 2015 with the intention of recruiting security staff to the door, these measures did not go far enough in their view.

Members found that submissions in respect of proceedings in the Magistrates' Court referred to by Mr Uddin were not relevant to the review because those matters were under a different regime, being under the Anti-social Behaviour, Crime and Policing Act 2014 and not the Licensing Act 2003.

Members were not persuaded that the Licensing objective consideration for them related to the hours of late night refreshment from 11:00pm onwards and were firmly of the view that good management must be considered in the round.

Members noted that in accordance with paragraph 1.5 of the Home Office section 182 guidance the aims and purpose of the licensing regime was to protect the public and local residents from crime, anti-social behaviour and nuisance caused by irresponsible licensed premises. They took note of the duty at paragraph 11.26 of the guidance to take steps with a view to promote the licensing objectives in the interest of the wider community and not of the individual licence holder.

The Members were not confident that the Licensees were in control of the premises and their staff and believed that there was a risk of events being repeated. After taking in to account the licensing objectives and all relevant considerations and evidence before them, the Sub-Committee, were persuaded on a balance of probabilities, that a revocation was necessary to promote the licensing objectives of promoting the prevention of crime and disorder and public safety.

Despite representations put forward by the licensees, Members were not persuaded that there were sufficient lesser steps at their disposal, by way of conditions, that could address the very serious and long enduring issues at the premises.

Decision

Accordingly, the Sub-Committee unanimously

**RESOLVED**

That the review application for each of the two premises, Nazrul Restaurant at 130 Brick Lane, London E1 6RU and Aladin Restaurant at 132 Brick Lane, London E1 6RU be **GRANTED** with the revocation of the premises licence.

**4.3 Application to Review the Premises Licence for Nazrul Restaurant - 130 Brick Lane, London, E1 6RU**

Please see decision at Item 6 above.

**5. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT**

There was no such business.

The meeting ended at 10.15 p.m.

Chair, Councillor Peter Golds  
Licensing Sub-Committee