

LONDON BOROUGH OF TOWER HAMLETS

RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 30 OCTOBER 2018

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

Members Present:

Councillor Dan Tomlinson (Chair)

Councillor Faroque Ahmed (Member)

Councillor Victoria Obaze (Member)

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

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 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 Application for a Premises Licence for (German Doner Kebab) 207 Mile End Road, London E1 4AA

This application for a new premises licence was withdrawn by the Applicant's Solicitor after discussion at the Licensing Sub-Committee hearing.

3.3 Application for a Premises Licence for (German Doner Kebab) 207 Mile End Road, London E1 4AA

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.

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.

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 9.35 p.m.

Chair, Dan Tomlinson
Licensing Sub Committee