

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON TUESDAY, 16 OCTOBER 2018****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Dan Tomlinson (Chair)

Councillor Tarik Khan

Councillor Leema Qureshi

Officers Present:

Kathy Driver

– (Principal Licensing Officer)

Vivienne Walker

– (Senior Prosecution Lawyer)

Corinne Holland

– (Licensing Officer)

Simmi Yesmin

– (Senior Committee Officer, Democratic Services)

Representing Applicants**Item Number****Role**

PC Mark Perry

4.2

Metropolitan Police

Pauline Foster

6

Applicant

Everest Wilson-Corp

6

Applicant

Representing Objectors**Item Number****Role**

Robert Fitt

4.2

Legal Representative

Rezwan Noor

4.2

Premise Licence Holder

Abdur Rahman

4.2

Designated Premises Supervisor

Apologies

None

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 Licensing Sub Committee meetings held on 31st July, 30th August and 18th September 2018 were agreed and approved as a correct record.

4. ITEMS FOR CONSIDERATION

The Chair varied the order of business at the meeting, however the minutes are set out in the published agenda order for ease of reference.

4.1 Application for Variation of a Premises Licence for Pizza Union, 25 Sandy's Row, London E1 7HW

This application was withdrawn by the Applicant and therefore no longer required consideration by the Licensing Sub Committee.

4.2 Application to Review the Premises Licence for Tanim Superstore, 542 Commercial Road, London E1 0HY

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report, which detailed the application for a review of the premise licence for Tanim Superstores, 542 Commercial Road, London E1 0HY. It was noted that the Police had triggered the review and was supported by the Licensing Authority. Ms Driver highlighted the fact that the current licence had been in place since 2006 and there had been no changes to the Premise Licence Holder and Designated Premises Supervisor since then.

At the request of the Chair, PC Mark Perry, representing the Metropolitan Police explained that the review had been triggered as a result of large amounts of nitrous oxide canisters found at the premises with the intent to sell for human consumption. He stated that there was currently an on-going investigation regarding this.

It was noted that intelligence had been received that the premise was selling nitrous oxide, and following a visit, 13,488 canisters were found at the premises together with boxes of balloons. It was believed that the only reason for these were to sell to people to use as a drug giving a psychoactive effect and therefore undermining the licensing objective of crime and disorder.

PC Perry referred to pages 138 & 153 of the agenda, witness statements from Officers stating that there were bags made up with canisters and balloons ready for sale. There was also a customer who had been given her money back as she was not able to purchase the nitrous oxide due to the visit made by officers at the premises.

It was noted from intelligence reports that there were clear links to nitrous oxide and the premises and clear evidence that they were selling nitrous oxide to people for effects. PC Perry said that it made local residents feel unsafe and this was contributing to anti-social behaviour in the area.

He stated that the Premises Licence Holder had blatant disregard to his responsibilities as a Premises Licence Holder and failed to uphold licensing objectives and therefore not confident he would abide by any licensing conditions.

He concluded that together with the Police, the Licensing Authority and Public Health were also supporting the review. The Premises Licence Holder clearly demonstrates an inability to be trusted to run a licenced premise and to further protect children from harm, therefore PC Perry asked that the premises licence be revoked.

Members then heard from Ms Corinne Holland, representing the Licensing Authority, she explained that the joint visit documented in the Review to the premises on Friday 22 June 2018 clearly showed that nitrous oxide was blatantly being sold to customers, many of these were young persons. The fact that the nitrous oxide was being sold together with balloons was obviously a very clear indicator that the management had full knowledge of what they were being used for. The Police witness reports showed that many young persons were turning up to purchase these and disappointed when turned away.

She explained that the nitrous oxide was known to be harmful and can have serious health risks and it was the responsibility of the retailers not to sell these psychoactive substances for human consumption. It was clear that staff/management were deliberately selling these for that very reason.

Ms Holland stated that there was clear and blatant disregard to laws and regulations and therefore the Licensing Authority supported the review for the revocation of the licence.

At this point Members noted the representation made on behalf of Public Health on pages 202-203 of the agenda pack.

At the request of the Chair, Mr Robert Fitt, Counsel representing Mr Rezwan Noor, Premises Licence Holder, explained that this licence had been in place since 2006 and there had been no breach of the licence or its conditions. He agreed that nitrous oxide had been illegal to sell for human consumption since 2017 however Mr Noor was not aware of this.

Mr Fitt advised Members that their role was not to punish the Premise Licence Holder, but to aide and support the promotion of the Licensing Objectives. He explained that there was an on-going criminal investigation and this matter would be dealt by the courts. He went on to explain the other options available for consideration before considering revocation.

Mr Fitt proposed three conditions that could be imposed on the licence to address the concerns that had been raised;

- 1) Introduction of the Challenge 25 policy
- 2) All staff undertake training on selling alcohol responsibly
- 3) Litter check around the premises whilst the premises operates.

He stated that the visit on 22nd June 2018 was subject to on-going investigation and Mr Noor and his staff were not aware that at the time that it was illegal to sell nitrous oxide. He explained that they no longer sell nitrous oxide, don't stock it at the store and this showed how responsible the licensee was and was abiding by the current licence. He explained that the department of Health and Standards suggested improvement works which had been complied with and therefore this went further to demonstrate that Mr Noor can comply with conditions and therefore there was nothing to suggest that he or his staff couldn't comply with conditions.

It was noted that nitrous oxide was not being sold at the premises now and would not be sold in the future. Mr Fitt explained that the substance didn't cause people to become aggressive or violent, and that it was mainly used by dentists, catering professionals, and midwives. He urged Members not to revoke the licence and to impose conditions they felt necessary and appropriate.

In response to questions the following was noted;

- That the licence has been in place since 2006.
- That this was the first review application for this premise.
- Assurance was given that the premises no longer sold nitrous oxide and that these would not be sold again.
- That the Director of Public Health, in his representation had said that nitrous oxide can cause dizziness or affect judgement, which might make one to act carelessly or dangerously and put one at risk of hurting themselves, particularly in an unsafe environment.
- That the premises licence holder was not aware that it was illegal to sell for human consumption, however once it was brought to their attention they stopped.
- It was questioned if management/staff were unaware that it was illegal to sell these then why were they behind the counter and being sold with balloons.
- That guidance states that revocation should be considered even in the first instance.
- That the revocation of the licence would have a huge impact on the business as the sale of alcohol contributed to a large part of the revenue and therefore the business may not be able to stay open.

In summation, Mr Fitt explained that the position was set out clearly, the nitrous oxide was no longer sold and this issues was subject to prosecution. Mr Fitt said that Mr Noor and his staff were capable of complying with conditions and proposed that imposing further conditions would be reasonable.

PC Mark Perry stated that there was a lack of ability to uphold licensing objectives and this impacted on residents, had health risks and there was no guarantee that they would not continue to sell nitrous oxide and therefore revocation was the only option.

Members adjourned the meeting at 8.20pm for deliberations and reconvened at 8.50pm.

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 merits and the Chair stated that the Sub Committee had carefully considered all of the evidence before them and had heard representation from Officers representing the Metropolitan Police and Licensing Authority and from the Applicant's Legal Representative.

Members expressed grave concerns regarding the crime and disorder and anti-social behaviour linked to the premises. Members noted the evidence provided by the Police and the Licensing Authority.

Members were satisfied that there were no conditions that could be imposed on the licence to promote the licensing objectives as the mismanagement of the premises was evident. Members believed that there was no other course of action that would satisfy and maintain and uphold the licensing objectives as there was a clear lack of confidence in the Premises Licence Holder to uphold the licensing objectives.

Members reached a decision and the decision was unanimous. Whilst making the decision Members had regard to Section 11 of the Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 in relation to reviews and in particular paragraph 11.28 of the statutory guidance relating to reviews;

"Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to

further crimes, it is expected that revocation of the licence- even in the first instance- should be seriously considered”.

. The Chair stated that it was the Sub Committee’s view that there were clear problems of crime and disorder and issues of the protection of children from harm and therefore felt it was necessary and proportionate to revoke the licence.

Decision

Accordingly, the Sub-Committee unanimously –

RESOLVED

That the application for a review of the premises licence for, Tanim Superstores, 542 Commercial Road, London E1 0HY be **GRANTED** with the Revocation of the Premises Licence.

5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

The Chair agreed to extend the decision deadlines for the following applications;

| Premises | Hearing Date | Decision by |
|--|--------------|-------------|
| German Doner Kebab, 207 Mile End Road, E1 4AA | 30/10 | 26/09 |
| Preem, 118-122 Brick Lane London E1 6RL | 30/10 | 23/10 |
| Venue 82, 82a Commercial Street, London E1 6LY | 13/11 | 22/10 |
| Cost Price 41 Brick Lane London E1 | 27/11 | 13/10 |
| Yummy Pizza, 57 Burdett Rd, London E3 4TN | 27/11 | 28/10 |
| Kays Local, 209 Roman Road, London E2 0QY | 04/12 | 09/11 |
| Wharf Kitchen, Unit 68 Jubilee Place, 45 Bank St, London E14 5NY | 04/12 | 23/10 |
| London Cocktail Club, 253 Paradise Row, London, E2 9LE | 08/01 | 04/12 |

6. APPLICATION FOR A TEMPORARY EVENT NOTICE FOR THE GEORGE TAVERN, 373 COMMERCIAL ROAD, LONDON E1 0LA

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report, which detailed the application for a temporary event notice (TEN) for George Tavern, 373 Commercial Road, London E1 0LA. It was noted that an objection had been made by the Police. Ms Driver highlighted that the Premises Licence Holder could apply for a maximum of 15 TENs in a calendar year and they had only applied for one in January 2018.

At the request of the Chair, Ms Pauline Foster, Applicant, explained that she occasionally applies for TENs if she gets requests for parties etc. but this was very rare. She explained that on this occasion they had been asked if they could host a party, customers would be from outside the Borough and would have three live bands playing.

Members then heard from PC Mark Perry, Metropolitan Police who highlighted the fact that since August 2018 there have been four incidents of drunken violence at the premises, he referred to his statement in the supplemental agenda and highlighted the incidents. He explained that the incidents all occurred late at night, and had been the cause of drunken violence and therefore this was an example of management failing to control customers. It was noted that Halloween was a busy period and there would be a high risk that there would be further disorder especially if licensed till 3am and this was a risk the Police could not take.

In response to questions the following was noted:

- That the event would have 2 SIA security staff, 4 bar staff and 1 sound engineer.
- That the Applicant has helped the Police on many occasions by providing their CCTV footage for incidents that have happened on the streets.
- That the main entrance to the pub was through Jubilee Place.
- That a lot of customers have been banned from the premises which will help eliminate any further disturbance.
- That Ms Foster has been running the premises for past 15 years with no complaints.
- Ms Foster stated that they hadn't received any correspondence from the Police to provide information regarding the recent incidents. However, whenever she has been contacted in the past for information it has been provided.
- That there had been four incidents of disorder in the space of the last couple of months
- That PC Perry was meeting with Ms Foster on Thursday this week to discuss the application.
- That there was too much of a risk associated with this application, and an option would be to negotiate reduced hours and should Police be satisfied then there was an option for a late TEN.
- That the event would also be open to the public.
- That two security staff was adequate to cover the size of the venue.

- It was noted not it was not a destination pub and did not have a big footfall of customers.
- That they employed the same two security staff in order to ensure continuity and for them to recognise customers who have been banned and customers that cause disturbance.
- That they had 10 CCTV cameras capturing all areas inside and outside the pub and in the past have helped the police with their investigations that have not related to the premises.

PC Perry stated that there was no doubt, that the applicants were good people and have helped the Police. However he was concerned that it was an outside event and don't know how many people would turn up. There were also risks, as there had been four incidents in such a short space of time.

Mr Everest Wilson-Corp, Ms Foster's son stated that they only had security staff on Fridays and Saturdays and couldn't afford to have them 7 days a week. However for the event would be happy to employ additional security staff.

Members adjourned the meeting at 7.10pm for deliberations and reconvened at 7.30pm

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 merits and the Chair stated that the Sub Committee had carefully considered all of the evidence before them and had heard representation from the Applicants and the Officer representing the Metropolitan Police.

Members noted the number of repeated incidents over the last couple of months and were concerned that these incidents had happened over such a short period of time. Members were of the view that at the moment it was not clear from any evidence that the Premises Licence Holder was upholding the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance.

Members welcomed the dialogue between the Police and the Premise Licence Holder and noted that they had arranged a meeting between themselves to discuss the particular event and other incident related issues. Members encouraged this to continue and were hopeful that a satisfactory decision would be reached between them, possibly via a Late Temporary Event Notice application.

Members reached a decision and the decision was unanimous. Members decided to refuse the application on the basis that on the balance of probability, if the application was granted, it would undermine the licensing objectives.

Decision

Accordingly, the Sub-Committee unanimously –

RESOLVED

That the application for a Temporary Event Notice for George Tavern, 373 Commercial Road, London E1 0LA be **REFUSED**.

The meeting ended at 9.00 p.m.

Chair, Councillor Dan Tomlinson
Licensing Sub Committee