

LONDON BOROUGH OF TOWER HAMLETS
MINUTES OF THE LICENSING SUB COMMITTEE
HELD AT 6.30 P.M. ON TUESDAY, 6 APRIL 2010

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

Members Present:

Councillor Rajib Ahmed (Chair)

Councillor M. Shahid Ali
Councillor Rupert Eckhardt

Other Councillors Present:

None

Officers Present:

Zakir Hussain	– (Solicitor)
Paul Johnson	– (Temo TO)
Nick Kemp	– (Licensing Officer)
Simmi Yesmin	– (Senior Committee Officer)

Applicants In Attendance:

David Dadds	- Counsel (Nemrut Kebab House)
Bekir Yalbirdak	- Applicant (Nemrut Kebab House)

Objectors In Attendance:

Alan Cruickshank - Metropolitan Police

1. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of Councillor David Snowdon for whom Councillor Rupert Eckhardt substituted for.

2. DECLARATIONS OF INTEREST

There were no declarations of interest made.

3. RULES OF PROCEDURE

The rules of procedures were noted.

4. UNRESTRICTED MINUTES

The minutes of the Licensing Sub Committee held on 23rd February and 11th March 2010 were agreed as a correct record of proceedings.

5. ITEMS FOR CONSIDERATION

5.1 **Application for a New Premises Licence for Cousins Snooker and Pool Club, First Floor, 244 - 254 Cambridge Heath Road, London E2 9DA (LSC 059/910)**

The Chair reported that this item had been **Resolved** and therefore did not require consideration by the Licensing Sub Committee.

5.2 **Application for a New Premises Licence for Nemrut Kebab House, 503 Cambridge Heath Road, London, E2 9BU (LSC 060/910)**

The Chair welcomed everyone to the meeting, ensured that introductions were made and then briefly outlined the procedure of the meeting.

At the request of the Chair, Nick Kemp, Licensing Officer, introduced the report which detailed the new application for Nemrut Kebab House, 503 Cambridge Heath Road, London E2 9BU. It was noted that objections had been received by the Metropolitan Police, Environmental Health and Planning Enforcement.

At the request of the Chair Mr David Dadds, Counsel for the applicant, explained that officers representing the Metropolitan Police and Environmental Health had agreed to extend the hours up to 12 midnight, however he stated that the applicant did not wish to accept this condition.

Mr Dadds explained that the representation made by Planning Enforcement was not relevant and that licensing and planning were separate functions and supported this with relevant case law. He stated that real evidence would need to be presented to show why licensing objectives would not be met.

He explained that the objections made by Environmental Health and Metropolitan Police did not provide any real evidence which supported their objection, such as noise readings, complaints or historical data. He stated that other local premises were open till later hours including takeaways, pubs and a club.

Mr Dadds explained that their objections could not be based on a policy decision or based on anxiety as this is what he believed it to be. In concluding he asked Members to grant the application as the applicant could not compromise on the hours recommended as this would affect the business financially.

At the request of the Chair Paul Johnson, Environmental Health referred to his statement contained within the agenda and explained that Environmental Health were objecting on the grounds of public nuisance and the opening hours applied for. He explained that Environmental Health had concerns that the premises being opened till late would give rise to public nuisance by customers frequenting and leaving the premises up till early morning hours and from people congregating outside the premises, with their cars playing loud music etc.

He stated that the hours recommended were the Council's framework hours and if hours beyond these are granted then the applicant should provide evidence as to why they are an exception. He explained that there were residential flats directly above the premises and that the premise was located in a quieter part of Cambridge Heath Road.

Mr Johnson explained that based on his experience, his experience of the out of hours service and on the balance of probabilities it was likely that a premises selling food during late hours would attract customers of a boisterous nature coming out clubs or pubs, driving up in cars with loud music and therefore was confident to assume that customers would cause significant public nuisance and affect residents. He believed that if the premise is opened till 5am, it would cause nuisance and there was no evidence to say that it would not cause nuisance.

Mr Johnson said that the hours proposed by Environmental Health, was reasonable and if Members were minded to grant a license then he would like for the conditions proposed by Environmental Health to be included on the licence. Mr Dadds, on behalf of the applicant confirmed that all the conditions proposed by Environmental Health were accepted by the applicant.

At the request of the Chair, PC Alan Cruickshank explained that he also agreed with the submission made by Mr Johnson as to the likelihood of public nuisance occurring if later hours were to be granted. He then referred to his statement and explained that during a recent visit to the premises food had been served to a customer outside the licensed hours to which the premises owner had been fined for. He explained that the premises was located in a partly residential area with flats directly above the premises and therefore urged Members to consider granting the license only up to 12 midnight as there were no other takeaways in close proximity to the premises opened beyond 11pm. Mr Cruickshank requested that the condition for CCTV cameras on the premises be included in any license that is granted. Mr Dadds confirmed that the applicant accepted the condition for CCTV cameras.

In response to questions by Members it was noted that the premises would not provide a delivery service, and would consider employing a SIA Registered Door Supervisor to manage the late night opening hours. It was noted that local residents in the area were notified of the application as well as a notice put up outside the premises.

In response to a Member's question, Mr Kemp confirmed the opening hours of the local businesses in the area i.e. an off licence, a pub and a takeaway were licensed to be opened till 1am and a pub licensed to be opened till 1.30am.

At the request of the Chair, all parties concluded by summarising their submissions.

The Chair advised that the Sub Committee would at 7.05pm adjourn to consider the evidence presented. The Members reconvened at 7.25pm, the Chair reported that the Sub Committee had;

After hearing representations from the Applicant's Counsel and Metropolitan Police and the Environmental Health Officer, Members felt that there was real prospect of public nuisance being caused if later hours were to be granted. Members believed that they could not be satisfied that adding further conditions would promote the licensing objective of the prevention of public nuisance and did not feel that there were any conditions that could be imposed to alleviate their concerns.

RESOLVED

That the new application for Nemrut Kebab House, 503 Cambridge Heath Road, London E2 9BU be **GRANTED in part** with the following conditions;

The Provision of Late Night Refreshments

Monday to Wednesday from 23:00 hours – 00:00 hours (midnight)
Thursday to Saturday from 23:00 hours – 01:00 hours

Hours Premises Open to the Public

Monday to Wednesday from 10:00 hours – 00:00 hours (midnight)
Thursday to Saturday from 10:00 hours – 01:00 hours
Sunday from 10:00 hours – 23:00 hours

Conditions

The CCTV system shall incorporate a recording facility and any recordings shall be retained and stored in suitable and secure manner for a minimum of 31 days. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed. The system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity. There must also be someone on the premises, who can download the images and present them immediately on request by a police officer or other responsible authority.

That the Licensee satisfies EH concerns re noise, vibration and odour prior to the License being valid.

Waste materials shall not be placed in the external bins during the night hours (23:00 hours to 07:00 hours the following day)

There shall be no collection or deliveries between 23:00 hours and 07:00 hours

Clearly legible notices shall be displayed at all exits from the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly.

If premises are to make deliveries, the following conditions are recommended:

Ensure that all motorcycle vehicles used for the home delivery service remain switched off at all times when the vehicles are not in use whilst kept outside the licensable premises.

Ensure that all motorcycles used for the home delivery service are not kept on the footway at any time.

Ensure that all motorcycles used for the home delivery service are switched on and operate from the carriageway only and not the footway.

Ensure that all motorcycles used for the home delivery service are fitted with the original manufacture's silencers and provisions are made for their non-interference.

The meeting ended at 7.45 p.m.

Chair, Councillor Rajib Ahmed
Licensing Sub Committee