

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.45 P.M. ON TUESDAY, 2 DECEMBER 2014

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

Members Present:

Councillor Amy Whitelock Gibbs (Chair)

Councillor Amina Ali
Councillor Rachel Blake

Officers Present:

Philip Devonald	– (Interim Head of Legal Operations, Law, Probity and Governance)
Kathy Driver	– (Principal Licensing Officer)
Andrew Heron	– (Licensing Officer, Licensing Department)
Ian Moseley	– (Trading Standards Officer)
Simmi Yesmin	– (Senior Committee Officer, Democratic Services)

Applicants In Attendance:

PC Alan Cruickshank	- (Item 3.2)
Mr Leo Charalambides	- (Item 3.2)

Objectors In Attendance:

Mr Philip Howorth	- (Item 3.2)
Mr Azmal Mert Hussain	- (Item 3.2)

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. ITEMS FOR CONSIDERATION

3.1 Application for a New Premises Licence for Hotbox, 46 - 48 Commercial Street, London E1 6LT

This item was resolved prior to the meeting as both objectors had withdrawn their objections and therefore no longer required consideration by the Licensing Sub Committee.

3.2 Application to Review the Premises Licence for Preem Restaurant and Balti House, 118-122 Brick Lane, London, E1 6RL

At the request of the Chair, Mr Andrew Heron, Licensing Officer, introduced the report which detailed the application for a review of the premises licence for Preem Restaurant and Balti House, 118-122 Brick Lane, London E1 6RL. It was noted that the review had been triggered by the Metropolitan Police and supported by Trading Standards and the Licensing Authority.

At the request of the Chair, Mr Leo Charalambides, Counsel on behalf of the Metropolitan Police explained that this application for review was deemed so serious that the only response was to seek for revocation of the premises licence. He referred Members to the guidance issued by the Home Office under Section 182 of the Licensing Act and in particular to paragraph 11.26 relating to Powers of a Licensing Authority on the Determination of a Review.

He explained that Brick Lane was within the Cumulative Impact Zone which was a wider community burden and this was exacerbated by restaurants touting. He explained that there was a Local Authority bye-law to tackle issues of touting but this seemed to have been ignored in this case. It was noted that there had been three reviews prior to this meeting, at the first review in January 2011 Members imposed conditions on the licence, the second review took place in October 2011 and Members imposed a two week suspension and a third review in November 2012 when Members imposed a four week suspension.

He explained that touting was a problem and a cause of many other problems such as anti-social behaviour, public nuisance and crime and disorder. He explained that the Premises Licence Holder, Mr Azmal Mert Hussain, had ignored previous suspensions and breached a number of licensing conditions and continues to do so. He highlighted the fact that none of the previous decisions have been challenged and therefore it was accepted by Mr Hussain that touting and breaches of conditions had been taking place.

Mr Charalambides highlighted that the minutes at the previous meeting confirmed that Mr Hussain had stated that he would not be touting anymore and would take positive steps to promote the licensing objectives, but obviously failed to keep to his word as staff at Preem were caught by PC

O'Rourke only 2 ½ weeks later touting and still continue to tout. There was also reference to page 231 of the agenda, Mr Hussain's supporting documents, which also referenced Mr Hussain admitting to touting, admitting to conspiracy and informal agreements with other restaurateurs.

Mr Charalambides also stated that Trading Standards and the Licensing Authority agreed with the Police that only revocation would be suitable as Mr Hussain had had ample opportunities to mend his ways but still continues to repeatedly breach conditions. It was also noted that previous reviews had not been challenged, that there had been a number of prosecutions where Mr Hussain has been found guilty and in total been fined over £12k. He also referred to all the police evidence/witness statements contained in the agenda which identified touting directly linked to the premises.

Mr Charalambides concluded that they had no confidence in Mr Hussain and that only revocation would do. That there had been three reviews prior to this one where Sub-Committees had imposed conditions and suspensions. He stated that due to the overwhelming evidence provided a serious message needed to go out to the wider community with a revocation of the premises licence.

Members then heard from Ms Kathy Driver and Ian Mosely who both expressed grave concerns about touting, the concerns over the management of the premises and Mr Hussain's overly casual regard to the Licensing Laws. Ms Driver also explained that there had been 271 complaints of touting between 2012-2014 for various premises in Brick Lane for aggressive touting, confrontations, abuse etc. she explained that Mr Hussain had a number of premises on Brick Lane and that 40 of the 271 complaints were directly linked to Mr Hussain's premises. She also highlighted the number of reviews that had been triggered against the premises, the suspensions and breaches of conditions.

It was concluded that Mr Hussain had no regards to the prosecutions of Licensing Laws and still continues to tout, therefore they believed that the most appropriate sanction would be for a revocation of the premises licence.

At the request of the Chair, Mr Philip Howorth, Counsel for Mr Hussain, explained that he accepted that the issues raised by the Responsible Authorities were of an important nature and that Mr Hussain was very apologetic to be at a Sub Committee meeting yet again and assured Members that he took these matters very seriously and that as a result of the review and others issues he had put his businesses on Brick Lane up for sale.

Mr Howorth went on to explain the options available to Members other than revocation. He stated that Mr Hussain had not taken previous reviews casually. He noted the Local Authority's effort to protect the public by imposing bye laws in order to prevent people causing annoyance or obstructions to passers by.

He stated that in 2010, a number of reviews were triggered by Trading Standards and as a result touting conditions were imposed as well as

suspensions etc, he questioned whether it was actually illegal to tout for business as it was an accepted form of business in some places.

It was noted that Mr Hussain had only one door staff who stood inside the entrance door but it was other business touts who would come outside Mr Hussain's premises and stop customers from entering the premises. Mr Hussain stated that he believed to have been the target of political activity. Mr Howorth stated that it was wholly wrong to blame all issues of touting entirely on Mr Hussain as there were other premises which contributed to the touting culture in Brick Lane.

Mr Howorth concluded that there had only been two incidents in the 4/5 years Mr Hussain has held a licence and that any sanction imposed should be reasonable and proportionate and revocation should not be granted just to send out a message to the wider community. He suggested that Members should allow a period of suspension to allow Mr Hussain further time to establish a method of operation and have a robust management system in place.

In response to questions from Members the following was noted:

- That the review had been triggered as a result of ongoing breaches of touting and licence conditions.
- That Mr Hussain would not employ touts and would instruct his staff not to tout.
- That this review was the first of many other premises reviews that were being processed through the licensing system.
- That prosecution can take place alongside a review application.
- That a successful prosecution could lead to fines up to £20k and imprisonment.
- That the decision whether to prosecute is determined by Officers by using the protocols in place as well as the Enforcement Policy.
- The steps taken before a review application.
- That touts were often waiters of the restaurant and not licensed door staff.
- That attacks on Mr Hussain had not been ignored by the Police as investigations were still on-going.
- That Licensing Services, Trading Standards and the Police have worked with Mr Hussain in the past to help him promote the licensing objectives.
- That Mr Hussain was touting because other businesses were doing the same.
- That the restaurant association in Brick Lane exclude Mr Hussain from meetings.
- That Police in the past have used images from Mr Hussain's CCTV cameras as evidence for other prosecutions.
- That Brick Lane was no longer a business environment and therefore Mr Hussain was selling his businesses.
- That Mr Hussain confirmed that touting would not happen again and would only have one door staff at the entrance.

- That all decisions made at previous Sub Committees were never appealed and therefore accepted by Mr Hussain.
- That Mr Hussain accepted that PC O'Rourke attending the premises on 16/07/14 but he denied stating "don't worry I will pay your fines" (page 97 of the agenda).
- That anyone could review a premises licence.

In summation, Mr Charalambides stated that no active steps had been taken by Mr Hussain since adjournment of the previous meeting 7 weeks ago. That all Mr Hussain did was blame other people for his wrong doings, make empty promises, and continues to breach conditions. He stated that they have heard nothing from Mr Hussain to believe that things could be different and therefore believed it was necessary and proportionate to revoke the licence.

Mr Howarth briefly stated that steps have been taken and business were now up for sale and that there was bigger problems in Brick Lane other than Mr Hussain who was only a small part of it and urged Members not to sanction the ultimate sanction of revocation in vain.

Members retired to consider their decision at 8.10pm and reconvened at 9.15pm.

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 Licensing Guidance and the Council's Statement of Licensing Policy.

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 all interested parties.

Members reached a decision and the decision was unanimous. Whilst making the decision Members had regard to section 51 of the Licensing Act 2003 and paragraph 11 of the statutory guidance relating to reviews. The Chair stated that in light of the number of repeated and serious breaches of the premise licence conditions in relation to touting which is in itself was a criminal offence, Members felt that it was appropriate and proportionate to suspend the premises licence for the maximum period of 3 months.

The Chair stated that it was the Sub Committee's (although they could not bind other Sub-Committees) view that this was Mr Azmal Mert Hussain's, Premise Licence Holder final opportunity to put matters right, responsibly manage the premises and abide with conditions of the license.

The Chair stated that it was evident from the evidence provided at the meeting that touting was a widespread problem and not just in relation to this premises as there were ongoing breaches by other premises in the area and

in fact the Police themselves state that it is “part of life in Brick Lane”. Therefore the Chair stated that this would be further considered by the Licensing Committee and suggested that a comprehensive programme and strategy be produced to address this across the board.

Decision

Accordingly, the Sub-Committee unanimously –

RESOLVED

That the application for a Review of the Premises Licence for, Preem Restaurant & Balti House, 118-122 Brick Lane, London E1 6RL be **GRANTED in part** with a suspension of the licence.

Suspension

Three month’s suspension. (the commencement date for suspension, to be detailed, in the decision notification letter)

4. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT

There was no other business.

The meeting ended at 9.15 p.m.

Chair, Councillor Amy Whitelock Gibbs
Licensing Sub Committee