

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 1 SEPTEMBER 2015

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

Members Present:

Councillor Peter Golds (Chair)
Councillor Muhammad Ansar Mustaqim
Councillor Rachael Saunders

Other Councillors Present:

Apologies

Officers Present:

Mohshin Ali	– (Senior Licensing Officer)	
Andrew Heron	– (Licensing Officer, Department)	Licensing
John McCrohan	– (Trading Standards & Manager)	Licensing
Ian Moseley	– (Trading Standards Officer)	
Vivienne Walker	– (Senior Prosecution Lawyer)	
Simmi Yesmin	– (Senior Committee Democratic Services)	Officer,

Applicants In Attendance:

Johnathan Nichols (Item 3.1)

Objectors In Attendance:

PC Alan Cruickshank (Item 3.1)
Shamsu Zzuha (Item 3.2)

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 Variation of a Premises Licence for Sheba Restaurant, 136 Brick Lane, London E1 6RU

At the request of the Chair, Mr Mohshin Ali, Licensing Officer, introduced the report which detailed the application for a variation of the premises licence for Sheba Restaurant, 136 Brick Lane, London E1 6RU. It was noted that objections had been received by the Metropolitan Police, Licensing Authority, a Local Business, Local Residents and a Resident Association.

At the request of the Chair, Mr Jonathan Nichols, Representative on behalf of the Applicant explained that he had worked for Tower Hamlets Council between 1997 and 2012 and for the past 2 years had been working in the Brick Lane area, working on projects such as Touting, Prostitution etc.

He explained that the application was to extend the hours for the sale of alcohol and late night refreshments for Sunday to Thursday to 12 midnight and 1am on Friday and Saturday. It was noted that the hours were reduced following consultation with the Environmental Health. He then referred to the objections made and stated that the incidents mentioned in the objections were to do with an event in 2011, the incident had took place close to the premises and was under old management at the time. He stated that the Applicant had applied for an increase in capacity from 50 to 75 people which was approved by Council in September 2013 which confirmed that the Council were happy with the current management.

Mr Nichols also referred to the concerns raised about false advertisements but questioned why these allegations were still ongoing and why had they not been substantiated. He confirmed that Mr Akhtar Miah, Applicant, had taken over the premises in 2012 and had not had any problems. He did say that touting may have occurred. He referred to the representation from City Spice which states that it shouldn't have a licence but argued the fact that there were other restaurants in Brick Lane which had licences till 2am.

Mr Nichols concluded that Brick Lane had an international reputation, and said that a reputation was hard to gain and easy to lose and therefore this application should be considered carefully. That Brick Lane was not a residential area it was a mixed use zone, it was on the city fringe, and had premises which were commercial, light industrial, workshops and restaurants.

Members then heard form PC Alan Cruickshank, Metropolitan Police, he stated that there were residential homes in and around the area, and expressed his disappointment over the fact that the Applicant was not present at the meeting.

PC Cruickshank explained that the Council had adopted a Saturation Policy/ Cumulative Impact Policy for the Brick Lane Area. This policy was adopted

due to the concerns about the number of licensed premises in such a small area and the resulting number of ASB calls and the potential for disorder. He said that with regards to the policy the Licensing Authority would normally refuse any new applications or any variation of these in the cumulative impact zone, unless the applicant could demonstrate there would be no negative cumulative impact on one or more of the licensing objectives.

He then referred to his statement on pages 72-76 of the agenda and explained that the premise has a history of violence from its staff and highlighted the incidents which took place 26th July 2014 and 7th October 2014. He concluded that there was nothing in the application or anything said at the hearing today to justify an increase in licensable hours.

Members also heard from Mr Andrew Heron, Licensing Authority who said that he agreed with the Police and said that this premises was known for repeated offences of touting. He said that touting by laws are breached on a regular basis and he himself had personally witnessed touting at the premises.

In response to questions it was noted that the current Applicant took over the premise on 28th September 2011 and that it was clear that the incidents referred to were under the current management.

Members retired to consider their decision at 7.25pm 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.

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 with particular regard to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance.

It was noted that a Cumulative Impact Policy was adopted by the London Borough of Tower Hamlets on 18th September 2013. Where the premises are situated in the cumulative impact zone and a representation is received, the licence will be refused. However the effect of this special cumulative impact policy is to create a rebuttable presumption.

The applicant can rebut the presumption if they can demonstrate that their application for a variation licence premises would not undermine one of the four licensing objectives. The applicant is expected to show this through the

operating schedule and with supporting evidence that the operation of the premises will not add to the cumulative impact already being experienced.

The Committee believed that nothing was said at the meeting or detailed in the application to suggest that the licensee would be doing anything new to promote the licensing objectives. It was also noted that the Applicant was not present at the meeting and therefore unable to answer any questions. Having noted the representations from the Police and Licensing Authority it suggests that nothing has improved even with the new management in place. Therefore Members decided to refuse the application as they had no confidence that the Applicant would promote the licensing objectives.

Decision

Accordingly, the Sub-Committee unanimously –

RESOLVED

That the variation application for, Sheba Restaurant, 136 Brick Lane, London E1 6RU be **REFUSED**.

3.2 Application to Review the Premises Licence for E2 Mini Market, 237 Bethnal Green Road, London E2 6AB

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 E2 Mini Market, 237 Bethnal Green Road, London E2 6AB. It was noted that the review had been triggered by Trading Standards and supported by the Licensing Authority.

At the request of the Chair Mr Ian Moseley, Trading Standards explained that the Licensing Authority was designated a 'Responsible Authority' for the purposes of the Act and it was raising this Review in relation to the prevention of Crime and Disorder and protection of children from harm.

He explained that on January 2014 the Council received a complaint alleging that staff at the premise were selling single cigarettes to underage persons however a test purchase attempt on the 28th of January was unsuccessful. On the 31st of January PC Evans observed the sale of a single cigarette to an underage person together with the sale of 100 self-seal bags which the purchaser concealed in his clothing. A witness statement and a supplementary witness statement by the officer were contained in the agenda. As a result of this the licensee, Mr Sumsu Zzuha was prosecuted and fined for the offence.

Mr Moseley continued to explain that on 4th February 2014 Police were advised that the CCTV system was not working this being a breach of the licence conditions. Again on the 19th February the Council received a complaint about the display of alleged drug related paraphernalia in the shop

window. As a result of the previous occurrences the trader was asked to adopt additional conditions by way of a minor variation to the licence and to give an undertaking to remove certain drug related items from the premises. The application and the undertaking were received on 15/4/2014 and a new amended licence was issued, after consultation, on 8/05/2014.

Mr Moseley said that a test purchase attempt outside the permitted hours was refused on 24th May 2014 but on 26th July 2014 an officer volunteer was sold alcohol outside the premises permitted hours. On 28th March 2015 an underage volunteer was sold alcohol by staff at the premises. This matter was still under investigation. On 1st May 2015 the Council received a further allegation that drug related paraphernalia was still being sold from the premises although no direct evidence was supplied. As a result of that complaint the premises were visited on 6th May 2015 and officers found a quantity of paraphernalia behind the counter including grinders, nitrous oxide canisters, balloons, 'penny bags'.

Mr Moseley concluded that in view of the licensee's failure to adhere to the licensing conditions and his failure to abide by the undertaking he gave to the Council, Trading Standards respectfully request that members consider revoking the licence.

Members also heard from Mr John McCrohan, Licensing Authority who briefly explained that the Licensing Authority was also supporting the view for revocation of the licence. He explained that this all impacts on the area and related anti-social behaviour.

He said that there was a failure to understand the licensing process and that the underage sales and the contents of paraphernalia being sold was concerning. He concluded that there was an evident lack of control of the business, demonstrated by the breaches set out in the review document and it was the opinion of the Licensing Authority that the premise licence holder is unable to fulfil his responsibilities to ensure the promotion of the licensing objectives.

Members then heard from Mr Shamsu Zzuha, the Premises Licence Holder who accepted the failures, breaches and misdeeds during the past. He said that at the time he used to also work for Tesco and having two jobs was getting too much for him and therefore he had to leave Tesco as he couldn't accept certain shifts at work as one of the conditions on the premises licence states that a personal licence holder must be at the premises at all times when alcohol is being sold.

He said that it was difficult to employee staff who had personal licences as they often wanted more money or leave as soon as they get trained and get their personal licence.

He acknowledged that items of paraphernalia were at the premises but explained that they were left over from April 2014 as they were left over stock and were forgotten about. He accepted his mistake and said that he had not been selling any forms of paraphernalia for over a year. He asked that more

conditions be imposed on the license but did not want to jeopardise his licence for the sale of alcohol. He said he used to find it hard to manage the premises as he had two jobs but was now working solely at the premises and wanted to work with the responsible authorities to help promote the licensing objectives.

In response to Members questions the following was noted;

- That Mr Zzuhu and two other people worked at the premises.
- That Mr Zzuhu had thrown away the remaining contents of paraphernalia.
- That staff who complete the personal licence training course usually want more money or leave.
- That Mr Zzuhu no longer worked for Tesco.
- That the CCTV camera drive was taken by the Police for a separate investigation and it wasn't that the CCTV was not working.
- That it was Mr Zzuhu's brother who was found selling single cigarettes to underage persons and as a result of this he was no longer working at the premises.
- That they did keep a refusal book at the premises but when this was asked for the member of staff froze and did not understand what the officers were saying.
- Members expressed concerns that if Mr Zzuhu worked in Tesco he should have been more aware of the regulations around licensing.

Members retired to consider their decision at 7.55pm and reconvened at 8.15pm.

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

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 with particular regard to the licensing objectives of the prevention of crime and disorder and the protection of children from harm.

Members acknowledged Mr Zzuha's, Premise Licence Holder/Designated Premises Supervisor's honesty and acceptance of the breaches of conditions observed by the Responsible Authorities. However Members were very concerned about the disregard for licensing laws and conditions on the licence and were extremely concerned about the number of underage sales.

Members did not feel that there were any further conditions that could be placed on the licence that would address the concerns raised. Therefore

Members revoked the licence and suggested that the Applicant reapply at a time when he has put measures in place to promote licensing objectives, sell responsibly and have trained and responsible staff to help manage and run a licensed premise.

Members urged the Premise Licence Holder to ensure that all staff were regularly trained and to work with Responsible Authorities to help gain a better understanding of the licensing objectives.

Decision

Accordingly, the Sub-Committee unanimously –

RESOLVED

That the review application for, E2 Mini Market, 237 Bethnal Green Road, London E2 6AB be **GRANTED** with the revocation of the premises licence.

4. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT

There was no other business.

The meeting ended at 8.30 p.m.

Chair, Councillor Peter Golds
Licensing Sub Committee