

MINUTES OF A MEETING OF THE LICENSING SUB COMMITTEE C

THURSDAY, 13TH OCTOBER, 2016

Councillors Present: Cllr Emma Plouviez (Substitute) in the Chair

Cllr Margaret Gordon and Cllr Emma Plouviez (Substitute)

Apologies: Councillor James Peters

Officers in Attendance: Audrey Dembinski (Trading Standards Officer), Robin Jones (Team Leader - Trading Standards), Shivangi Medhi (Equality and Diversity Policy Officer), Emma Perry (Governance Services Officer), Butta Singh (Senior Solicitor for Licensing) and Mike Smith (Principal Licensing Officer)

Also in Attendance: Mangal Ocakbasi
Robert Sutherland, Solicitor
Ercan Cuce, Applicant
Mr Demir, Interpreter for Applicant

1 Election of Chair

1.1 Councillor Plouviez was duly elected to chair the meeting.

2 Apologies for Absence

2.1 An apology for absence was received from Councillor Peters.

3 Declarations of Interest - Members to declare as appropriate

3.1 There were no declarations of interest.

4 Minutes of the Previous Meeting

4.1 The minutes of the previous meetings held on 22 March and 12 July 2016 were agreed as an accurate record.

5 Licensing Sub-Committee Hearing Procedure

5.1 Councillor Plouviez outlined the hearing procedure, as set out on page 23 of the agenda.

6 Premises Licence: Mangal Ocakbasi Restaurant, 10 Arcola Street E8 2DJ

Thursday, 13th October, 2016

- 6.1 Mike Smith, Principal Licensing Officer, introduced the report and advised that the only remaining representation was from an Other Person. Mike Smith advised that the Other Person had proposed an amended condition, which the Applicant was unable to accept. A plan showing the hatched area was circulated in advance of the meeting.
- 6.2 Robert Sutherland, Solicitor, outlined the application on behalf of the Applicant. Mr Sutherland explained that the premises already had a premises licence for longer operating hours and that the application purely dealt with the sale of alcohol. Mr Sutherland highlighted that there was no representation from Environmental Health.
- 6.3 Mr Sutherland made reference to the representation from the Other Person and stated that they did not live that close to the premises. Mr Sutherland did not believe that the premises was one of the biggest polluters on the area and felt that the suggested condition regarding the exhaust system was completely disproportionate. He added that the Applicant could provide their cleaning procedure for this system if required.
- 6.4 Discussion took place regarding the incident of the fire at the premises in February 2016 and the Applicant explained that this had been caused by human error whilst works were being undertaken at the premises, not due to the extraction system. There had been no internal damage to the premises which re-opened the next day.
- 6.5 The Legal Officer questioned why the Applicant had submitted a new premises licence application and not submitted a variation licence to include alcohol sales. In response, the Applicant believed that this was the best approach in order to not cause confusion.
- 6.6 The Legal Officer stated that there could be a conflict of conditions and if granted, they could apply for a variation to the licence to include late night refreshment on to the alcohol licence. The Chair added that she would prefer to see the two licences merged together to ensure no conflict of conditions, if granted.
- 6.7 Following further discussion took place surrounding the extraction system and proposed condition by the Other Person, it was agreed that the following condition be added to the licence, if granted:-
- Maintain the air extraction system and put in place a scheme of cleaning to ensure the system is cleaned at least every 3 months, with a certificate retained and produced upon request to the Licensing Authority.
- 6.8 Following discussion regarding the existing licence, the Applicant agreed to apply for a minor variation of the licence to include late night refreshment, along with adding any relevant conditions from the existing licence. Following the minor variation taking place, the licensee agreed to surrender the existing licence.

RESOLVED that:-

The Licensing Sub-Committee in considering this decision from the information presented to it within the report and at the hearing today has determined that having regard to the promotion of all the licensing objectives:

- The prevention of crime and disorder;
- Public safety;
- Prevention of public nuisance;
- The protection of children from harm;

the application has been approved in accordance with the Council's licensing statement and the proposed conditions set out in paragraph 8.1 of the report, with the following additional condition:

- Maintain the air extraction system and put in place a scheme of cleaning to ensure the system is cleaned at least every 3 months, with a certificate retained and produced upon request to the Licensing Authority.

Reasons for the decision

The application has been approved, with the above additional condition, as the Licensing Sub-Committee was satisfied that the licensing objectives would not be undermined.

It should be noted that the application has been approved on the basis that the applicant has helpfully and sensibly agreed to apply for a minor variation of the licence to include late night refreshment along with adding any relevant conditions from the existing licence. Following the minor variation taking place the licensee has agreed to surrender the existing licence.

7 Review of Premises Licence: Gunners Off Licence, 33 Blackstock Road N4 2JF

- 7.1 Mike Smith, Principal Licensing Officer, introduced the report and stated that the Licensee and Trading Standards had now agreed that the licence be suspended for a period of 3 weeks. The Licensee had also accepted the inclusion on the licence of the additional conditions proposed by Trading Standards. The Licensee was unable to attend the meeting due to a medical appointment.
- 7.2 Audrey Dembinski, Trading Standards, outlined their representation. Audrey Dembinski referred to the history of the premises and stated that there had been a number of instances since 2010 where non-duty paid alcohol and tobacco had been seized from the premises. The last instance that had been recorded was on 17 March 2016 when a quantity of non-duty paid tobacco had been seized. It was explained that Trading Standards had agreed to a suspension of 3 weeks as opposed to 6, as it could not be proved that the licensee had been operation at the premises in 2010 when one of the instances took place.
- 7.3 Councillor Gordon questioned whether the premises had been subject to a criminal investigation. In response, it was explained that the HMRC had decided to take the case forward to review instead. Trading Standards had not

been back to the premises since the last instance in March 2016 and would be making a further visit after this review to ensure that there were no more non-duty paid goods at the venue. It was explained that a review of the premises had also taken place in 2012 when a number of additional conditions had been added to the licence.

- 7.4 Shivangi Medhi, Senior Public Health Practitioner, outlined the representation from Public Health. Shivangi Medhi stated that the dense availability of alcohol had a significant impact on the health and wellbeing of many of the borough's residents. It was therefore vitally important that premises allowed to sell alcohol were well managed and responsible with the sale of alcohol. Tackling alcohol misuse, as well as tobacco control, was key to achieving the aspirations of Hackney's Health and Wellbeing Strategy. The representation was made under the prevention of crime and disorder licensing objective.
- 7.5 Shivangi Medhi advised that the availability of illicit alcohol and tobacco in such premises made it easier for residents to access these products at reduced prices, often making it easier for children to start smoking. Furthermore, it allowed criminal activity to take place in the borough. She stated that the sale of illegal tobacco and alcohol and the seizure of goods suggested continued mismanagement at the premises, which needed to be controlled in order to reduce their potential damage to residents. She supported the action proposed by Trading Standards.
- 7.6 In response to a point of clarification, it was confirmed that the goods seized had been non-duty paid and not counterfeit.

RESOLVED that:-

The Sub-Committee in considering this decision from the information presented to it within the report and at the hearing today have determined that having regard to the promotion of all the licensing objectives:

- The prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- The protection of children from harm

that the premises licence for Gunners Off Licence, as detailed in paragraph 3.1 of the report, be modified and suspended as follows –

- The licence be suspended for 3 weeks and the following conditions be added to their licence:
 1. The licensee will immediately report to Trading Standards any instance of a caller to the shop attempting to sell illegal alcohol or tobacco.
 2. The licensee must attend an accredited training course on underage sales and meeting the licensing objectives – organised by Hackney Trading Standards. Failure to attend the training may lead to further sanctions e.g. revocation of licence.
 3. The licensee must display in a prominent position a Council poster/window sticker saying "We do not buy or sell illegal tobacco here".

Reasons for the decision

The Sub-Committee, having heard from Trading Standards and the Health Authority, are satisfied that a suspension of the licence in addition to further conditions being imposed are both necessary and appropriate to ensure that the licensing objectives are not undermined.

The Sub-Committee took a small amount of comfort in the fact that the Review related to non-duty paid goods that were not counterfeit, and as such did not pose a significant health risk to customers.

However, the Sub-Committee made it clear that they have taken a dim view of the constant mismanagement of the premises and would expect any further or repeated breaches of a similar nature to result in more severe action being taken.

8 Temporary Event Notices - Standing Item

8.1 There were no Temporary Event Notices to consider.

Duration of the meeting: 7:00 – 7:40pm

Signed

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Chair of Committee

Contact:

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