

LICENSING (2003 ACT) SUB-COMMITTEE

**Meeting held on 22nd, January 2009
in Committee Room 1, Newham Town Hall, East Ham, E6 2RP**

Present: Councillors Winston Vaughan (Chair)
Maureen Jones and Patrick Murphy

The meeting commenced at 6.30 p.m. and closed at 8.00 p.m.

1. Declarations of Interest

There were no declarations of interest.

2. Election of Chair

The Chair and Vice-Chair of the sub-committee were not available to attend the hearing. Having attained a quorum, the Clerk asked Members to elect a Chair to allow the business of the meeting to proceed.

Members elected Councillor Winston Vaughan to chair the meeting.

3. Eastenders Kebabs, 359 Princet Lane, E16

To consider and determine an application made for a new premises licence, representations having been made against the application. The premises do not have the benefit of any existing premises licence.

The applicant, Mr Mehmet Cinko was present with Counsel, Mr Kurtulus Sarak and Solicitor Mr Bambou. Also present were Licensing Officers and from the Metropolitan Police, Conal Stoa and PC Dennis Kemp.

A plan of the area immediately surrounding the premises was attached as Appendix A to the report and a plan of the premises was attached as Appendix B. A copy of the application form was received by the Licensing Team and was attached as Appendix C.

Application

Under the application, the activity and times required were:

Activity: Provision of Late Night Refreshment

Sunday to Thursday: 23.00 hours to 00.30 hours the days following
Friday & Saturday: 23.00 hours to 01.00 hours the days following
Premises Opening Times
Standard Hours

Monday to Thursday: 11.30 hours to 00.30 hours the days following
Friday & Saturday: 11.30 hours to 01.00 hours the days following
Sunday: 13.00 hours to 00.30 hours the days following

Section P of the application form set out the steps the applicants proposed to take to promote the four licensing objectives of the prevention of crime and disorder, public safety, prevention of nuisance and the protection of children from harm.

REPRESENTATIONS

Metropolitan Police

Had lodged representation in connection with the licensing objective of Crime and Disorder. A copy of their letter of representation was attached as Appendix D.

Local Residents

Had lodged representation in connection with the licensing objectives of Crime and Disorder; and Public Safety. A copy of their letter of representation and their petition was attached as Appendix E.

Noise and Nuisance

Had lodged representation and subsequently the applicant and the Noise and Nuisance team had reached an agreement and had withdrawn their representation on the basis that the following conditions should be placed on any licence granted:-

1. To ensure that offensive smells from the licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.
2. To provide adequate and suitable lidded receptacles to receive and store refuse and food waste from the premises.
3. The placing of waste receptacles outside the premises takes place at time which will minimise the disturbance to nearby residential properties.
4. To ensure that the receptacles for food waste and refuse storage are maintained in a clean condition.
5. To ensure litter is regularly cleared from the vicinity of the premises.

The sub-committees attention was drawn to the Council's Licensing Policy and specifically:

- Section 4: Determinations
- Section 7: Licensing Hours
- Annex D: Conditions relating to the prevention of Crime and Disorder.
- Annex E: Conditions relating to Public Safety
- Annex G: Conditions relating to the prevention of Public Nuisance

Members informed the applicant that the petition submitted in favour of the application had been received by Licensing Officers, Members Services and the Metropolitan Police too late and was not submittable as evidence. The closing date for representations was 23rd December 2008, and the petition had last been signed on 13th January 2008 by a resident, before being submitted.

The applicant wished to confirm with officers for the benefit of the Sub-Committee, that a Mr Patel who had signed the petition had withdrawn his representation. Officers confirmed that this was the case.

Metropolitan Police

Conal Stoat addressed the Sub-Committee regarding the Metropolitan Police's concerns relating to crime and disorder.

PC Denis Kemp had accompanied Conal Stoat to the meeting and wished to address the Sub-Committee regarding his dealings with the premises. He stated that in January 2008 the Police initiated a Form 303, which was a process to deal with gang related behaviour.

The applicant's solicitor raised an objection stating that the evidence being verbally delivered had not been previously submitted to the applicant to allow an effective response to new evidence.

The legal advisor to the Sub-Committee, Kamaljit Jandu, clarified that Mr Bambou's objection to what PC Kemp was presenting was based on the fact that the information had not been made available to Members or the applicant prior to the hearing.

Members suggested excluding PC Kemp's verbal representation and to allow him to amplify what evidence had already been presented in the letter from the Police. Conal Stoat stated that there was no guidance on the disclosure of Police information for hearings, saying that some of the information would have been restricted prior to the hearing.

The main substance of Mr Bambou's objection was disclosed as being that the Police were presenting evidence and information that the applicant would not have had time to respond to, and that only the letter and witness statement were admissible. This was agreed by the Chair. Mr Bambou agreed that it would be acceptable for PC Kemp to refer to incidents that had occurred in the past and had been discussed with the applicant.

After midnight on 1st January 2008, the applicant was seen to be selling food on the premises to three customers. PC Kemp approached Mr Cinko and asked him if he had a licence for extended hours to which he replied he did not. On another occasion youths that appeared to be under 18 years old, were seen playing on a gaming machine that was on the premises.

PC Kemp stated that there was a problem with anti-social behaviour on Prince Regent Lane and help had been sought from local people but there was a fear of repercussions. The staff at the premises were not willing to ask the purveyors of the anti social behaviour to desist or leave the shop.

PC Kemp voiced his concerns that the anti social behaviour would increase should the premises be granted an extended licence. There were 2 gangs that were fighting for territory in the area. Later opening hours could exacerbate the existing crime and anti social behaviour, as well as allowing warring factions to meet.

Members asked if the Police Officer had spoken to Mr Cinko on any other occasions apart from New Years Eve to which he replied he had mostly spoken to the other staff in the shop.

Mr Bambou stated that the applicant had been on the premises and trading for 22

years, was long established and had co-operated with the police. The applicant was a fit and proper person to run the shop. Mr Bambou stated that Mr Cinko had not been prosecuted for the offence on New Year's Eve and asked the Sub-Committee if one incident could be determinative of an application and suggested that the sensible conclusion for the Sub-Committee to reach would be that he was a fit and suitable person able to run his business.

The application did not include alcohol, dining in, or music, making it unlikely to become a destination venue. There was no evidence of crime reports and statistics after 11pm. The applicant had not had great dealings with the Police, been reported to environmental health nor received any complaints from local residents.

Whilst it was acknowledged that there were problems locally, they could not all be blamed on this small takeaway. The residents objection reflected the feelings of the community, although one Mr Patel who had signed the petition had withdrawn his representation, and the others who had signed the petition lived around the corner from the premises.

Customers to the premises were mostly locals and shift workers. CCTV could be introduced at the premises to counter the congregation of people around the premises.

Members asked the applicant if the incidents witnessed by Police including fights breaking out in the shop and the staff being afraid to confront purveyors of ASB had happened. Mr Cinko said that there had been no fights or anti sociable behaviour outside the premises. If there had been he would not have applied for the licence as this would have adversely affected his business.

He further responded saying that there had been minor incidents which staff had been able to control. If a major incident had arisen the Police would have been called.

Members asked what the minor incidents would have been. Mr Cinko replied it was usually when ordering food customers would not have enough money to pay for what they ordered.

Members asked how many times Police had been called to incidents in the past 6 months. Police had been called to lights broken outside the premises, shop window glass broken and someone running away from pursuers seeking refuge in the shop. The youth was led to the back of the shop, and the pursuers were locked outside the shop. Because they were not allowed into the shop the group pursuing broke the shop window. Staff then called the Police.

Summary

The isolated incidents were not caused by the shop itself and should not affect the application for extra hours to serve food. Anti social behavior and crime and disorder could be dealt with by the mechanisms designed to deal with these issues.

There being no further questions or statements from the applicant, the Chair passed a resolution that Licensing Officers, Police Officers, the applicant and his representatives withdraw from the meeting at **7.20pm** to allow the Sub-Committee to deliberate the application. The Clerk and Legal representative remained. Following the Sub-Committee reaching a decision all parties returned to the meeting at **7.50pm** for the decision.

DECISION

The sub-committee agreed to grant the licence subject to the following closing times

and conditions agreed with Noise and Nuisance:

For late night refreshment the hours have been agreed:

1. Sunday - Thursday - 23.00hrs - Midnight
2. Friday - Saturday - 23.00hrs - 00.30hrs

Premises are open to the public for late night refreshment

1. Sunday - Thursday - 23.00hrs - Midnight
2. Friday - Saturday - 23.00hrs - 00.30hrs

Conditions agreed with Noise and Nuisance as follows:-

1. To ensure that offensive smells from the licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.
2. To provide adequate and suitable lidded receptacles to receive and store refuse and food waste from the premises.
3. The placing of waste receptacles outside the premises takes place at a time which will minimise the disturbance to nearby residential properties.
4. To ensure that the receptacles for food waste and refuse storage are maintained in a clean condition.
5. To ensure litter is regularly cleared from the vicinity of the premises.

The conditions have been imposed to promote the licensing objectives of Public Safety, the prevention of Public Nuisance and Crime and Disorder.