

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 6 NOVEMBER 2013**

COUNCILLORS

PRESENT Derek Levy, Toby Simon and Elaine Hayward

ABSENT

OFFICERS: Mark Galvayne (Principal Licensing Officer), Dina Boodhun (Legal Services Representative), Ellie Green (Principal Trading Standards Officer), Charlotte Palmer (Licensing Enforcement Officer), PC Martyn Fisher (Police licensing officer), Jane Creer (Democratic Services)

Also Attending: Yilmaz Celik, Director for Montague Supermarket, and legal representative
David Graham, legal representative of Zed 1 Enterprises Limited, and McDonalds Fore Street operations manager
Ms Melek Akgun, DPS/premises licence holder and Mr Karaman Saglem, owner/manager, Kosem Restaurant and Meza Bar

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WELCOME AND APOLOGIES

The Chairman welcomed all those present, introduced the Members, and explained the order of the meeting.

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DECLARATION OF INTERESTS

NOTED that there were no declarations of interest in respect of any of the items on the agenda.

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ORDER OF AGENDA

AGREED that the order of the agenda be varied for the convenience of all attendees, and in respect of the non-attendance of representatives of Kosem Restaurant and Meza Bar at the start of the meeting. The minutes follow the order of the meeting.

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**MONTAGUE SUPERMARKET, 171-173 MONTAGU ROAD, EDMONTON,
N18 2NA (REPORT NO.125)**

LICENSING SUB-COMMITTEE - 6.11.2013

RECEIVED an application made by the Licensing Authority for a review of the Premises Licence held by Mr Yilmaz Celik at the premises known as and situated at Montague Supermarket, 171-173 Montagu Road, Edmonton N18.

NOTED

1. The introduction by Mark Galvayne, Principal Licensing Officer, confirming the emailed agreement between the Licensing Authority and the licence holder on 31 October 2013, which had been circulated to all parties. The Sub-Committee was asked to determine the issue in the light of this agreement.
2. The Chairman welcomed the agreement but noted that the Sub-Committee were concerned that there had been alcohol sales to children under 18, and were mindful of guidance that even in a first such incidence, Trading Standards had the facility to consider revocation of a licence.
3. In response to the Chairman's queries regarding the original representation, Ellie Green, Principal Trading Standards Officer, advised that officers making compliance visits believed that a lot of the problems related to the lack of presence of the Designated Premises Supervisor (DPS). It was a requirement of the review to vary the DPS, and that had been done since the review application was made. Trading Standards were satisfied that the change of DPS was a material consideration. There had also been a further test purchase which had been refused, and in addition the hours of operation had been agreed and conditions strengthened.
4. The Chairman's further points in respect of responsibilities of licence holders and the seriousness of alcohol sales to under 18's, and that any further breach would be likely to lead to a review of the licence.
5. The licence holder's representative thanked the Local Authority licensing team and the Police for working with their client. A test purchase had been correctly refused in September, and a compliance visit in October had found that all conditions were being complied with. The licence holder understood the seriousness of the situation and would work even harder to ensure the licence was complied with.

RESOLVED that the Licensing Sub-Committee RESOLVED to modify the conditions of the licence in accordance with the agreement made by the Licensing Authority and the operators.

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MCDONALDS, 112-118 FORE STREET, EDMONTON, N18 2XA (REPORT NO.126)

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RECEIVED an application made by Zed 1 Enterprises Limited for the premises known as and situated at McDonalds, 112-118 Fore Street, Edmonton N18.

NOTED

1. The introductory statement of Mark Galvayne, Principal Licensing Officer, including the following points:
 - a. The application was to vary the existing Premises Licence.
 - b. The current hours permitted late night refreshment from 23:00 until 00:00 every day of the week. The application sought late night refreshment from 23:00 until 01:00 the following day on Sunday to Thursday and from 23:00 until 02:00 the following day on Friday and Saturday.
 - c. The application was subject to representations from the Metropolitan Police Service and the Licensing Authority.
 - d. It was confirmed that the premises was located in the Edmonton Cumulative Impact Policy Area. Therefore the Cumulative Impact Policy (CIP) applied to this application. The Core Hours for late night refreshment were 23:00 to 00:00.
 - e. This application was therefore outside the Core Hours of the CIP.
 - f. As set out in para 5.10 of the report, the Council's policy was that this application was subject to the presumption against grant that was implicit in a CIP.
 - g. As set out in para 5.11 of the report, where the CIP applied to an application, applicants were expected to demonstrate an understanding of how the policy impacted on their application; any measures they would take to mitigate the impact; and why they considered the application should be an exception to the policy.
 - h. A statement regarding Cumulative Impact received from Zed1 Enterprises Ltd t/a McDonalds was included as Annex 06 to the report.
 - i. Though not material to this application, in response to the Chairman's query it was advised that core hours for alcohol sales in the Edmonton CIP Area were until 23:00 in pubs and off-licences and until 00:00 in restaurants for all new and variation applications since April 2012.
2. The opening statement of Ellie Green, Principal Trading Standards Officer, including the following points:
 - a. The Licensing Authority had considered the application and had objected to it in its entirety.
 - b. Officers had also considered the statement in Annex 06 to the report.
 - c. The main reason for objection was that the premises was situated in the Edmonton CIP, and the core hours should not exceed 00:00 for late night refreshment. The hours applied for exceeded that time and so the Licensing Authority had no choice but to object.
 - d. There had been no recent complaints, but a history of high crime statistics in the vicinity had led to the introduction of the Edmonton CIP. Crime levels were also highest in the area between 23:00 and 01:00.

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- e. If the premises was open at this time it may attract problems because of where it was situated, irrespective of licence conditions.
 - f. Allowing any extension of hours could have a negative impact on crime and disorder and public nuisance, and would not support the CIP.
 - g. However, should the Sub-Committee be minded to grant the application, amended conditions proposed were set out on page 83/4 of the agenda pack.
3. Ellie Green responded to questions as follows:
- a. In response to the Chairman's query regarding the relationship between crime levels and alcohol consumption in the area, Licensing officers did not have information available. PC Fisher advised that people who had been drinking would often seek food afterwards and McDonalds would be an attraction to people leaving pubs. There were local pubs and a night club that had late licences which were existing licences pre-dating the introduction of the Edmonton CIP.
 - b. Licensing Authority officers and Police confirmed they were not persuaded that supplementary steps suggested by the applicant would make a material difference in this case.
4. The statement of PC Martyn Fisher that he reiterated the Police objections to the application for the same reasons as Trading Standards Service.
5. The opening statement of Mr David Graham, representing Zed 1 Enterprises, on behalf of the applicant, including the following points:
- a. He introduced the operations manager of McDonalds.
 - b. This McDonalds franchise had been operating since November 2007. The hours it currently traded were from 06:00 to 00:00 every day.
 - c. The application sought to vary these to 05:00 to 01:00 Sunday to Thursday and 05:00 to 02:00 Friday and Saturday.
 - d. The hours applied for were outside the core hours of the Edmonton CIP; there was a presumption such applications should normally be refused, but this presumption was rebuttable.
 - e. He questioned whether this application was likely to contribute to cumulative impact in the area. He hoped that a grant of the application could be persuaded on its own merit.
 - f. He considered that the purpose of the CIP designation was protection against alcohol-related crime and disorder.
 - g. This premises did not serve alcohol or allow alcohol to be brought onto the premises. Potential for alcohol-related crime was inherently limited and no alcohol was being pumped into the late night economy.
 - h. Since the operation began in 2007, there had been no complaints from residents in respect of noise or nuisance. The premises was fitted with self-closing doors and good sound insulation. Staff would go outside every half hour and check front and back that there was no-one loitering – if there was, then staff would invite them inside to make a purchase or ask them politely to move on. This policy had operated successfully.

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- i. In March 2013 McDonalds head office had made the application to vary the planning permission to allow opening to these new hours. That was duly publicised via site notices and letters to 22 neighbouring properties. No representations were received. Officers considered and granted the application as they were satisfied there would be no undue effect on the amenities of adjoining or nearby properties. The permission was time-limited to expire in March 2014 which would allow assessment of the impact of later opening hours on the residential amenities of nearby properties, and provided a safeguard.
 - j. It was stated in the Licensing Authority representation that if the conditions and times were accepted in full the representation would be withdrawn. The additional condition was accepted. Ellie Green confirmed that the representation was not withdrawn in this case.
 - k. The applicant had no objection to conditions being strengthened irrespective of the application and was willing to work constructively with authorities.
 - l. In respect of crime and disorder, no representations had been made regarding any specific incidents. There was no causal link and no likelihood that extending operating hours would cause any additional criminality.
 - m. McDonalds had been the victim of crime. They kept their own incident log and had reported crimes to the Police in this period, such as teenagers trying to steal cardboard or setting fire to bins at the back of the premises. On one occasion someone had tried to steal an item of furniture. These incidents were not related to hours of operation.
 - n. McDonalds had 16 CCTV cameras, including 2 trained on the outside of the premises, and had a zero tolerance policy to any anti-social behaviour inside or immediately around the premises.
 - o. Incidents logged had taken place in the daytime by teens who were not likely to be there buying burgers at 01:00/02:00.
 - p. McDonalds were not in any way causing criminality. They were already operating until 00:00, at pub closing hours, and there had been no incidents of crime and disorder relating to McDonalds.
6. Mr David Graham, representing Zed 1 Enterprises, on behalf of the applicant, responded to questions as follows:
- a. The Chairman raised that the supplementary statement was dated 9 September 2013, but the application was dated 3 May 2013 and Section M of the application form which asked about any additional steps intended to be taken to promote the four licensing objectives as a result of the proposed variation had only been responded to by 'Please see attached Operating Schedule'. He questioned why it had taken four months to submit a supplementary statement and why the opportunity was not taken to provide necessary information on the form. It was advised that this Authority was unusual in requiring an additional statement over and above what was normally provided in the operating schedule. His instructing solicitors acted for McDonalds across the country and had been surprised there could not be a hearing without supplementary information and had

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intended to submit further details at that time. He apologised that with numerous forms filled in all the time, they were not always completed with the care they should be. It had been taken on board that thorough completion of the application form may have avoided the need for this hearing.

b. In response to the Chairman's query, it was confirmed that irrespective of the decision, the suggested amendments to Condition 2 and Condition 5 would be accepted on the licence, and that the notices were already displayed as suggested.

c. In response to Councillor Hayward's question regarding the likely clientele for late night refreshment, it was advised that clients after 21:00 were generally adults, including families with grown-ups. He also added that McDonalds operated a radio link (Town Link) in case of incidents.

d. In response to Councillor Simon's queries, it was advised that no noise nuisance was anticipated. McDonalds had been operating until 00:00 for many years without concern. Later operating hours would not cause crime and disorder. It was possible that crimes might take place in the premises, but that was not a reason to restrict the hours. McDonalds wanted its customers to have a safe and pleasant experience.

7. The closing statement of Mark Galvayne, Principal Licensing Officer, including the following points:
 - a. He confirmed that the CIP policy applied in this case and that, as set out in para 5.10, the presumption was that the application would be rejected.
 - b. It was for the Sub-Committee to consider if granting in breach of the policy would promote the licensing objectives.
8. There were no further comments from the Licensing Authority or Police representatives.
9. The applicant's representative advanced points of rebuttal of the presumption against granting. Mark Galvayne clarified the guidance and explanation and the agreed policies set out in the Council's Licensing Policy.

RESOLVED that

1. In accordance with the principles of Section 100(A) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

The Licensing Sub-Committee retired, with the legal representative and committee administrator, to consider the application further and then the meeting reconvened in public.

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2. The Licensing Sub-Committee RESOLVED that the application be granted in full as follows:

(i) Hours the premises are open to the public : Sunday to Thursday from 05:00 to 01:00 the following day and on Friday and Saturday from 05:00 to 02:00 the following day.

(ii) Late night refreshment : Sunday to Thursday from 23:00 to 01:00 the following day and on Friday and Saturday from 23:00 to 02:00 the following day.

Amended and additional conditions in accordance with Annex 05 to the report.

3. The Chairman made the following statement:

“The Licensing Sub-Committee considers that the applicant has taken appropriate and additional steps to promote the licensing objectives.

In the absence of any evidence that the applicant contributes to problems of noise or crime and disorder in the Fore Street area at present; and of any evidence that allowing extended hours would have more than an imperceptible effect on the cumulative impact of noise or crime and disorder; and having taken full account of the Cumulative Impact Policy, we agree to the extended hours applied for, subject to the agreed change in the licence conditions.”

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KOSEM RESTAURANT AND MEZA BAR, 500-504 HERTFORD ROAD, ENFIELD, EN3 5SS (REPORT NO.124)

RECEIVED an application made by the Licensing Authority for a review of the Premises Licence held by Ms Melek Akgun at the premises known as and situated at Kosem Restaurant & Meza Bar, 500-504 Hertford Road, Enfield EN3.

NOTED

1. The introductory statement of Mark Galvayne, Principal Licensing Officer, including the following points:
 - a. The application was to review the Premises Licence and was made by the Licensing Authority.
 - b. The application was set out in Annex 03 to the report.
 - c. Additional information to the Licensing Authority representation was set out on page 33 – 38 of the agenda pack.
 - d. It was confirmed that the Licensing Authority now sought revocation of this licence.
 - e. Subsequent to publication of the agenda, the Licensing Authority provided further additional information by email dated 28.10.13, circulated in advance of the meeting.

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2. The opening statement of Charlotte Palmer, Licensing Enforcement Officer, including the following points:
 - a. She requested to submit further additional written information relating to the weekend of 2 / 3 November. This was not agreed to be received by the Chairman.
 - b. The initial review application was made because of noise complaints, noise abatement notice, and breaches of permitted hours at the premises.
 - c. The initial review application sought to reduce the licensed hours for regulated entertainment and to amend/add further conditions.
 - d. However, subsequent to the initial review application, further complaints were received, bringing the total number to 20, and the noise abatement notice was breached.
 - e. Offences had continued despite Ms Akgun, the licence holder and DPS, knowing that this hearing was pending.
 - f. Ms Akgun was interviewed under caution on 4 November 2013. Up to that point, it was considered that her responsibilities as licence holder had not been taken seriously and that she had been slow to act.
 - g. The stage had now been moved from the window and a board put up, but there had been insufficient time to assess whether the changes had any effect.
 - h. Officers had also been informed that musicians had been sacked, but the responsibility was with the licence holder to ensure that music volume was appropriate.
 - i. The current ownership of the premises dated from April, and all the alleged offences listed had all occurred since the opening night on 9 June 2013.
 - j. Officers had come to the conclusion that this licence should be revoked based on the prevention of public nuisance and the prevention of crime and disorder licensing objectives.
 - k. The same problems had continued over five months, despite letters and visits: officers had no confidence in the licence holder, and considered that residents had suffered enough.
 - l. The premises was located within the Enfield Highway Cumulative Impact Policy (CIP) Area, where there was a greater occurrence of crime and disorder, and there were many residential properties.
 - m. There had also been breaches of hours approved under Planning permission (Ref TP/92/1037/1).
 - n. Even on the previous weekend, in the early hours of 3 November 2013 there had been a further breach of the noise abatement notice, and an officer visit made at 01:30 in relation to loud music.
 - o. Issues had been continuous and were still occurring. Receipt of 20 complaints in five months equated to a complaint every week since the business opened.
 - p. Officers had given advice to keep musicians away from windows, to ensure doors were kept closed, and to turn the volume down. The advice had been simple and officers did not understand why the operation had been so problematic. Each week they lost confidence in this operation.

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Improvements had not been forthcoming, even with this review hearing and legal proceedings pending.

3. The statement of PC Martyn Fisher that he supported the Licensing Authority's application. It was clear from the breaches listed that the premises licence holder and DPS were not willing to work with the Police and Council.
4. Representatives of the authorities responded to questions as follows:
 - a. In response to the Chairman's query, Charlotte Palmer confirmed that the representation in respect of prevention of crime and disorder referred to the criminal offences being investigated relating to licence breaches. PC Fisher confirmed that the only calls to Police about the premises were in regard to noise.
 - b. The Chairman asked for further details about the officer visit on Saturday 28 September 2013. Charlotte Palmer believed the incident had been intimidating for officers. They had to assess risk for their own personal safety, and would leave if they were being approached in this way. Officers tried not to get involved in discussions with customers. She confirmed that it was neither of the representatives present who had made the comments noted on page 35 of the agenda pack, which were quoted from the officers' notes taken on the night.
 - c. Ms Akgun stated that she had done her best, including giving notice to musicians, and questioned whether officers thought she had done nothing to tackle the issues. Charlotte Palmer maintained that simple solutions including turning the music down had not been implemented, and that Ms Akgun was directly responsible as licence holder.
5. The opening statement of Ms Akgun and Mr Saglem on behalf of Kosem Restaurant and Meza Bar, including the following points:
 - a. In respect of the Police visit on 5 October 2013, there had been no problems, people had finished eating and there was no music. However, the operators did understand the issues and did try to keep the neighbourhood happy. Officers from the Council and the Police had come and given advice, which was acted on.
 - b. Soundproof curtains were put up, but did not work.
 - c. Musicians had been asked to reduce the volume, but did not listen, but the bands that were too loud were no longer used.
 - d. The stage had been moved to the middle of the restaurant.
 - e. Professionals had been brought in and soundproofing had now been installed to the windows. They had done everything to stop noise and complaints.
 - f. Ms Akgun stated that she had tried her best to keep noise inside. Bass had not been used for over a month. Staff used one door in and one door out so as to keep music in.
6. Ms Akgun and Mr Saglem responded to questions as follows:

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- a. The Chairman asked about the officer visit on 28 September 2013, and comments as the licence holder. Ms Akgun stated that she always treated officers kindly on visits to the premises, and took them to the office or private area to talk, so as not to involve customers. She also never allowed other staff to talk to the officers. The comments quoted were not made by the DPS or manager and had nothing to do with them. She did not agree with what was said. The comments may have been made by a customer under the influence of alcohol.
 - b. Councillor Hayward asked about the solutions to noise issues described and yet there had been complaints three days ago. Ms Akgun responded that she did not agree there were noise issues, because the bass had been off for one and a half months, two different sets of curtains had been made, outside patrols had been carried out, back doors and toilet windows had been kept shut, volume levels were kept down. She did not think that much noise was coming out of the premises.
 - c. The Chairman highlighted the noise abatement notice and breaches suggested that there was a statutory nuisance, and that there had also been breaches of the licensed hours, and he asked if the licence holder's responsibilities were being taken seriously. Mr Saglem stated that music was stopped completely by 01:30 as their first priority. Customers often took time to leave and may be preparing to go for 10 to 20 minutes.
 - d. The Chairman asked if, given the problems discussed, the operators would be willing to shut the restaurant and suspend the licence voluntarily for a period of one to three months to work on the licensing issues further to the satisfaction of the Licensing Authority. Mr Saglem stated that he wanted to work together to do everything he could not to shut the restaurant. He had a lot of employees and he had invested a lot of money in the premises. He declined the opportunity of a brief adjournment of the meeting to consider the Chairman's question. Charlotte Palmer advised that officers still sought revocation of the licence, as they had been working for five months with the operators but issues had occurred from the opening night to last weekend and had not been resolved. Mr Saglem re-iterated that officers' advice had been followed and asked Members to also consider a compromise rather than revocation in their discussions.
7. The summary statement of Mark Galvayne, Principal Licensing Officer, that having heard all of the representations from all the parties, the Sub-Committee must take such steps as it considered appropriate for the promotion of the licensing objectives.
 8. The closing statement of Charlotte Palmer, Licensing Enforcement Officer, including the following points:
 - a. The Licensing Authority sought a revocation of this licence.
 - b. This was because of the lengthy period that problems had gone on, and the amount of officer time which had been dedicated to this operation.
 - c. The operators had moved the stage, but this was only done the previous Sunday. The soundproofing was not up yet. Measures had been offered very late.

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- d. There had also been breaches of hours, which had not been addressed. Officer notes and statements were on file for a potential prosecution.
9. The closing statement of PC Martyn Fisher, confirming that the Police supported revocation of this licence. Due to the number of breaches of the licence he had no faith in the operators.
 10. In closing, Mr Saglem raised that having represented himself he would rather involve his barrister. The Chairman advised that the operators had knowledge of this application and hearing and there had been ample time to seek legal advice if they had wished to. The Sub-Committee had to consider the application on the basis of everything they had heard today and information provided in the meeting papers, whilst noting that a decision could be subject to appeal.

RESOLVED that

1. In accordance with the principles of Section 100(A) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

The Licensing Sub-Committee retired, with the legal representative and committee administrator, to consider the application further and then the meeting reconvened in public.

2. The Licensing Sub-Committee RESOLVED to revoke the licence.
3. The Chairman made the following statement:

“Having considered all the written evidence and listened carefully to all the oral submissions given at the hearing, the Licensing Sub-Committee has decided that the applicant, in bringing this review, made the case for revocation in full; and that it is appropriate for the promotion of the licensing objectives to revoke the licence.

The Sub-Committee were entirely persuaded by the evidence within the submissions from the Licensing Authority that the licence conditions have been repeatedly and continuously breached since the licence was granted, on several occasions even since the review was called and knowledge of today's hearing known. This was despite all the advice and guidance dispensed by officers on regular visits to the premises.

As such, the Sub-Committee was persuaded by the evidence from the applicant that we could have no faith in the licence holder's ability to

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manage the premises in compliance with the conditions attached to that licence.”

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MINUTES OF PREVIOUS MEETINGS HELD ON 21 AUGUST, 11 SEPTEMBER AND 18 SEPTEMBER 2013

RECEIVED the minutes of the meetings held on 21 August, 11 September and 18 September 2013.

AGREED that the minutes of the meetings held on 21 August, 11 September and 18 September 2013 be confirmed and signed as a correct record.