

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE  
HELD ON WEDNESDAY, 21 AUGUST 2013**

**COUNCILLORS**

**PRESENT** Derek Levy (Chairman), George Savva MBE and Anne-Marie Pearce

**OFFICERS:** Mark Galvayne (Principal Licensing Officer), Ellie Green (Principal Trading Standards Officer – Licensing Enforcement), Jeffrey Elliott (Environmental Protection Officer – Pollution Control, Planning and Licensing Enforcement), Dina Boodhun (Legal Services)

**Also Attending:** Mr Y. Karpuz (applicant), the applicant's legal representative and premises manager

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**WELCOME AND APOLOGIES**

The start time of the meeting was delayed until 10.40am whilst legal clarification was sought on issues raised by the applicant's legal representative.

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.

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**URGENT ITEM: TEMPORARY EVENT NOTICE - GAZAN RESTAURANT,  
170-172 HIGH STREET, PONDER'S END, EN3**

**AGREED** pursuant to Section 100B(4) of the Local Government Act 1972 (as amended) to receive an application for a temporary event notice for Gazan Restaurant, 170-172 High Street, Ponders End, EN3.

NOTED that the application was urgent as there was a need to consider the application for the Temporary Event Notice, given the objection received from the Environmental Health Authority, in advance of the event to which it relates. The application was seeking approval for the proposed event to take place between Saturday 24 August to Monday 26 August 2013. Whilst the application had been received on 8 August and the objection notice was served on the application on 12 August, the applicant did not confirm that they

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wished to proceed to a hearing until the 19 August, meaning that it had not been possible to provide advance notice of the hearing.

RECEIVED an application made by Mr Yusuf Karpuz for a Temporary Event Notice for the premises known as and situated at Gazan Restaurant, 170-172 High Street, Ponders End, EN3.

1. Mark Galvayne, Principal Licensing Officer, began by reading out the following statement which had been circulated by e mail and by hand in response to legal issues of clarification sought by the applicant's legal representative:

"Dear Fabien

I refer to the Temporary Event Notice, under the Licensing Act 2003, given by Mr Yusuf Karpuz on 8 August 2013 for a proposed event at Gazan Restaurant, 170-172 High Street, Ponders End EN3 between one minute past midnight on Saturday 24<sup>th</sup> August 2013 and half past two o'clock on the morning of Monday 26<sup>th</sup> August 2013.

On 12<sup>th</sup> August 2013 the Environmental Health Responsible Authority gave an Objection Notice to your Temporary Event Notice, as detailed above, as the authority believes that allowing the premises to be used in accordance with the notice will undermine the licensing objectives. The Objection Notice was personally made by Ellie Green, who is employed by the London Borough of Enfield as the Principal Trading Standards Officer – Licensing Enforcement. The London Borough of Enfield's Licensing Enforcement Team exercise all of the Council's responsible authority functions under the Licensing Act 2003 in consultation with and on behalf of : the licensing authority; the local enforcement agency for the Health and Safety at Work etc Act 1974 etc; the local authority with responsibility for environmental health; the local planning authority; the body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm; and the local weights and measures authority (trading standards).

I am employed by the London Borough of Enfield as the Principal Licensing Officer and I hold the position of Borough Licensing Officer in respect of the Councils statutory licensing and registration functions.

On 12<sup>th</sup> August 2013 I accepted, on behalf of the London Borough of Enfield as licensing authority, that the e-mail sent by Ellie Green to [licensing@enfield.gov.uk](mailto:licensing@enfield.gov.uk) at twenty-four minutes past 4 o'clock in the afternoon with the subject of 'Temporary Event Notices (TEN) at Gazan Restaurant, 170-172 High Street, Enfield North, ENFIELD, EN3 4EU' was an Objection Notice from the Environmental Health Responsible Authority to your client's Temporary Event Notice, as detailed above, and was properly made under the Licensing Act 2003.

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If Mr Karpuz wishes to challenge this decision then he may challenge it by way of Judicial Review proceedings.”

2. The opening statement of Mark Galvayne, Principal Licensing Officer, including the following points:

a. An application had been made for a temporary event notice in respect of a proposed event at the premises from 00:01 on Saturday 24 August to 02:30 on Monday 26 August 2013. The notice was for the provision of late night refreshment. A copy of the Temporary Event Notice had been circulated. An objection to the notice had been made by the Environmental Health Responsible Authority.

b. In response to a question from Councillor Levy, Mark Galvayne explained the processes to be followed in respect of Temporary Event Notices (TENs). It was noted that on 8 August 2013 Mr Karpuz had given late notice to the Council in respect of a proposed event at the premises from 00:01 on Saturday 17 August to 02:30 on Monday 19 August 2013. The Environmental Health Responsible Authority had given an Objection Notice to the proposed event and the Council had issued a Counter Notice to stop the event and no hearing had taken place. In normal circumstances a TEN required ten working days' notice to be given and if an objection was received there was a right to a hearing to take place. If a late notice TEN was received (five to nine working days' notice) and an objection was received then a counter notice could be issued to stop the event taking place without a hearing being convened.

3. The opening statement of Ellie Green, Principal Trading Standards Officer – Licensing Enforcement:

a. The Environmental Health Responsible Authority believed that allowing the premises to be used in accordance with the Temporary Event Notice would undermine the licensing objectives. On 12 August 2013 the authority had given an Objection Notice, as circulated with the agenda papers.

b. Ellie Green went through the objection notice in detail highlighting the issues which had arisen at the premises in question both under the present and previous ownership and issues in relation to Mr Karpuz as a Premises Licence Holder. The location of the restaurant was outlined to Members – it was located in a parade of commercial premises with residential properties above and in the near vicinity. The licensing conditions of two other premises in the near vicinity of the restaurant were noted.

c. It was noted that objections from residents had been received previously in relation to the Gazan Restaurant; they were not however able to object to a TEN.

d. Ellie Green outlined in detail the visits which had been made to the premises during August 2013, the complaints which had been received and the actions taken. These included noise complaints, unacceptable noise, smoke and odour from the extractor unit; officers had found breaches of the premises licensing conditions. An inspection report with required actions had been issued to Mr Karpuz. On 14 August an observation visit had been carried out from a resident's premises with regard to the unacceptable level of smoke and odour coming from the restaurant's extractor flue. An enforcement

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notice had been served under Section 80 with a 28 day enforcement period being given.

e. It was noted that on 8 August 2013 an application had also been made by Mr Karpuz to vary the Premises Licence (so as to extend operating hours). The last date on which representations may be admitted in respect of this application was 5 September 2013.

f. Visits had been made to the premises by enforcement officers on 16 and 17 August (the period in which the first TEN had been applied for) and breaches to the licensing conditions had been observed.

g. The premises is located in the Edmonton Cumulative Impact Policy Area which came into force in April 2012 and related to all new and variation applications (the hours applied by the Policy were set out in the Objection Notice).

h. This history of Mr Karpuz's management of similar licensed premises was set out for Members, as outlined in the Objection Notice.

i. It was noted that different home addresses had been provided by Mr Karpuz in his applications.

j. The Environmental Health Responsible Authority had a lack of confidence in Mr Karpuz's management to comply with the licensing objectives and conditions in view of the history outlined.

k. Gazan Restaurant was located in a residential area and was in close proximity to local residents from which previous objections had been received.

4. The following questions were raised in response to the opening statement of Ellie Green:

a. Councillor Pearce, in response to a question raised, was advised that the current premises licence was for an indefinite period and was not time-limited.

b. Councillor Savva was advised that a reasonable amount of time is allowed for identified improvements to be made to a licensed premises and that clear advice is provided to the premises licence holder on requirements and conditions.

c. The applicant's legal representative questioned if there were any conditions which could allow for an extension of the licensing hours of the premises. Ellie Green reiterated concerns regarding the location of the premises and the effect on neighbouring residential properties. It was noted that the Sub-Committee could impose one or more conditions on a TEN (paragraph 4.5 of the report to the Sub-Committee referred).

d. The applicant's legal representative stated that work had been carried out to the restaurant's extraction system.

e. In response to issues raised by Mr Karpuz's premises manager, Councillor Levy reminded those present that consideration could only be given to the premises in question and the TEN which had been applied for. The licensing conditions of nearby premises would not be taken into consideration.

5. The opening statement of the applicant's legal representative:

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a. The TEN was in effect for an additional two hours trading each evening over the Bank Holiday weekend. He stated that improvements had been made to the extraction unit, staff had been trained and local residents had been contacted. The extension in hours was to gain extra income/funding for the premises. It was stated that a number of previous objections received had been prior to Mr Karpuz's ownership of the premises.

6. The following questions were raised in response to the applicant's representative's statement:

a. In response to questions raised by Councillor Levy, clarification was sought as to how the TEN would be supporting the licensing objectives of the premises. It was stated that the restaurant would not be seeking to serve alcohol during the extended hours as the majority of the restaurant's customers did not drink alcohol. It was noted that there were no specific events planned for the weekend to be covered by the TEN. Members questioned why a TEN had been submitted when an application to vary the licensing hours of the premises was pending.

b. Councillor Pearce questioned the provision of late night refreshments and was advised that the premises would be seeking to serve hot food and hot drinks and that it was not intended to serve alcohol after the permitted times. It was primarily a restaurant to serve food.

c. Councillor Savva questioned if there was any clear evidence that local residents/customers wanted an extension in opening hours. No evidence was provided; comparisons were made against the hours of nearby comparable premises.

d. Councillor Levy again questioned why a TEN had been submitted when there was no special event planned and whilst an application to vary the premises licence was pending. It was also reiterated, as stated in the Objection Notice, that the Council's records show the following in relation to planning permission: "The premises shall only be open for business between the hours of 08:00 and 24:00 each day; and all activity associated with the use shall cease within 1 hour of the closing time specified above" – Condition 4 of planning permission TP/07/1230. It was noted that planning enforcement could take place if these hours were extended.

e. Mark Galvayne questioned whether the application to vary the premises licence would require an extension for the provision of alcohol; the application appeared to contradict the comments of the applicant and would require clarification.

f. Ellie Green questioned whether staff training was documented and was advised that the premises' training information was available on request.

g. Ellie Green stated that an abatement notice had been issued to Mr Karpuz on 16 August 2013 regarding the noise, smoke and odour from the premises extraction unit and asked whether the required work had been carried out. The applicant's representative stated that work had been done already. However in further discussion and with clarification from Jeffrey Elliott, Environmental Protection Officer, it was noted that whilst works had been carried out regarding the noise issue, the work to improve the smoke

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and odour was still pending. A period of 28 days had been given to complete the works. It was therefore highly unlikely that the work would be completed prior to the weekend covered by the TEN. An extension in hours would therefore have an adverse impact on local residents in this respect. The applicant stated that the additional hours covered by the TEN would provide additional revenue to fund the required works.

h. In the light of the discussion which had taken place, and with the application to vary the premises licence pending, Councillor Levy asked the representative if he wished to withdraw the TEN. The applicant wished to continue with the TEN.

i. In response to a question raised it was stated that the TEN was to extend the licensing hours.

7. The closing statement of Mark Galvayne, Principal Licensing Officer:

a. Reference was made to the TEN application and the hours that the premises had technically applied for over a three day period. The Sub-Committee needed to determine if it felt it to be appropriate to issue a counter notice against the TEN, as detailed in the report to the Sub-Committee.

8. The closing statement of Ellie Green, Principal Trading Standards Officer – Licensing Enforcement:

a. The position of the Environmental Health Responsible Authority was unaltered and concerns remained as set out in the Objection Notice.

9. The closing statement of the applicant's legal representative:

a. Clarification was provided on the additional hours sought through the TEN. Works had been carried out to the extraction unit and further improvements were pending. A number of the objections raised had been prior to Mr Karpuz's ownership of the premises. The premises had been the subject of new ownership, management and staff.

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. Notice was given by Mr Yusuf Karpuz to use the premises known as and situated at Gazan Restaurant, 170-172 High Street, Ponders End,

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EN3 for licensable activities at a proposed event at the premises from 00:01 on Saturday 24 August to 02:30 on Monday 26 August 2013.

3. The Licensing Sub-Committee RESOLVED that it is appropriate, for the promotion of the licensing objectives, to give Mr Karpuz a counter notice for the event.
4. The Chairman made the following statement:

Having considered all the oral and written representations, the Licensing Sub-Committee considers it appropriate for the effective promotion of the licensing objectives, to reject the TEN application, and therefore appropriate to issue Mr Karpuz with a counter notice for the event at Gazan Restaurant.

The Sub-Committee felt that the representative for Environmental Health Responsible Authority made the case for objection in full; and demonstrated to our satisfaction that the applicant does not inspire sufficient confidence to be able to promote the licensing objectives by way of the extended hours provision sought through the TEN application.

Whilst we acknowledge that the applicant, in the short time he has been owner of this business, has started to take steps to strengthen the operation of the licence, by improvements in the training regime and record keeping, and responding to other advice recently issued, we were nevertheless strongly persuaded by the verbal submission from Mr Elliott, Environmental Protection Officer.

As he made clear to the panel, implementation of enhanced and compliant extraction systems, re-identified by a site visit on 14 August 2013 in respect of smoke and odour, and subsequently by the serving of a Section 80 Notice on the 18 August 2013, could not possibly be installed by the time and dates sought through the current TEN application.

This alone carries sufficient weight to persuade us that the proposed event would undermine the Licensing objectives – specifically Prevention of Public Nuisance – and should not take place.