

COMMITTEE :
Licensing Sub-Committee
29 March 2017

REPORT OF :
Principal Licensing Officer

LEGISLATION :
Licensing Act 2003

Agenda - Part	Item
<p>SUBJECT : Application to review a premises licence</p> <p>PREMISES : Kanatci, 500-504 Hertford Road, ENFIELD, EN3 5SS</p> <p>WARD : Enfield Lock</p>	

1.0 **LICENSING HISTORY & CURRENT POSITION:**

- 1.1 On 10 May 2005 an application by Mr Hayri Ebcin to convert an existing Justices Restaurant Licence and a Public Entertainment Licence to a Premises Licence, which was not subject to any representations, was granted by officers in accordance with delegated powers (LN/200500120). Mr Ebcin was also the named Designated Premises Supervisor.
- 1.2 On 30 April 2013 an application by Ms Melek Akgun for transfer of the Premises Licence, which was not subject to any representation from the Police, was granted by officers in accordance with delegated powers. Ms Akgun was also the named Designated Premises Supervisor.
- 1.3 On 16 August 2013 application was made by the Licensing Authority for a review of the Premises Licence. The review was made following after hours sales and a breach of a noise abatement notice. The Licensing Sub-Committee resolved to revoke the premises licence on 6 November 2013. An appeal was subsequently submitted.
- 1.4 However, on 8 July 2014 a new premises licence (LN/201400350) was issued naming Mr Hakan Atakli as the Premises Licence Holder and Designated Premises Supervisor (DPS). Therefore the appeal hearing was dismissed and premises licence LN/200500120 was revoked.
- 1.5 On 19 June 2015, a vary DPS and Transfer application was issued naming Mr Erdogan Gurgur as the Premises Licence Holder, and Mr Osman Ercen as the DPS.
- 1.6 On 20 February 2017, a vary DPS and Transfer application was submitted naming Mr Mustafa Arslan as the Premises Licence Holder and Mr Erdal Tercanli as the DPS.

- 1.7 The current Premises Licence permits:
- Hours the premises are open to the public: Daily from 09:00 to 00:00.
 - Supply of alcohol (on and off supplies): Daily from 10:00 to 23:00.
 - Live music, Recorded music & Performance of dance: Daily 09:00 to 23:00.
 - Late night refreshment: Daily from 23:00 to 00:00.

1.8 A copy of a location map of the premises is attached as Annex 01.

1.9 A copy of the current Premises Licence is attached as Annex 02.

2.0 THESE APPLICATIONS:

Due to the overlap of information in three applications for the same premises, they are to be presented together.

2.1 REVIEW APPLICATION

2.1.1 On 16 March 2017 application was made by the Licensing Authority for a review of the Premises Licence (LN/201400350).

2.1.2 Under S167 of the Licensing Act 2003 a premises licence review is triggered where a Magistrates Court has made a Closure Order under section 80 of the Anti-Social Behaviour, Policing and Crime Act 2014.

2.1.3 On Wednesday 15 March 2017, Highbury Corner Magistrates Court issued a Closure Order for Kanatci, 500-504 Hertford Road, ENFIELD, EN3 5SS, which closes the premises for a period of three months. The Licensing Authority was notified of the order on the same day.

2.1.4 The closure order was sought by the Metropolitan Police Service following reports of crime and disorder at the premises.

2.1.5 The review application, including a copy of the Closure Order and submissions from the Police are attached as Annex 03.

2.1.16 The Licensing Authority is required to notify the premises licence holder, responsible authorities and other interested parties of the review and invite representations.

2.1.7 The Premises Licence Holder and Responsible Authorities were advised that representations to the application should be submitted within 7 days of the advertisement, and the closing date is 22 March 2017. This report was prepared prior to that date; therefore any further representations will be submitted in an additional report.

2.1.8 A Licensing Officer placed copies of the notice at the premises and at the Council offices and also on the Councils website.

2.1.9 A representation was received from the Licensing Authority on 20 March 2017 in support of the review application, on the grounds of all four licensing objectives. This representation is attached as Annex 04.

2.2 TRANSFER APPLICATION:

2.2.1 On 20 February 2017, Mr Mustafa Arslan applied to the Licensing Authority for a Transfer of Premises Licence (LN/201400350).

2.2.2 A copy of the application is attached as Annex 05.

2.2.3 On 6 March 2017, the Police gave notice that they considered that it was necessary under the crime prevention objective to object to the Transfer application. A copy of the Police representation is attached as Annex 06.

2.3 VARY DPS APPLICATION

2.3.1 On 20 February 2017, Mr Mustafa Arslan applied to the Licensing Authority to vary the DPS from Mr Osman Ercen to Mr Erdal Tercanli.

2.3.2 A copy of the application is attached as Annex 07.

2.3.3. On 6 March 2017, the Police gave notice that they considered that it was necessary to object to the Vary DPS application. A copy of the Police representation is attached as Annex 06.

3 RELEVANT LAW, GUIDANCE & POLICIES:

3.1 The paragraphs below are extracted from either:

3.1.1 the Licensing Act 2003 ('Act'); or

3.1.2 the Guidance issued by the Secretary of State to the Home Office of June 2014 ('Guid'); or

3.1.3 the London Borough of Enfield's Licensing Policy Statement of April 2012 ('Pol').

3.1.4 the Summary Review Guidance, Section 53A Licensing Act 2003 issued by the Home Office ('Summary').

General Principles:

3.2 The Licensing Sub-Committee must carry out its functions with a view to promoting the licensing objectives [Act s.4 (1)].

3.3 The licensing objectives are:

3.3.1 the prevention of crime and disorder;

3.3.2 public safety;

3.3.3 the prevention of public nuisance; &

3.3.4 the protection of children from harm [Act s.4 (2)].

- 3.4 In carrying out its functions, the Sub-Committee must also have regard to:
3.4.1 the Council's licensing policy statement; &
3.4.2 guidance issued by the Secretary of State [Act s.4 (3)].

Review:

- 3.5 In reviewing a licence the Sub-Committee will consider, and take into account, the complaints history of the premises and all other relevant information [Pol s.10.3].
- 3.6 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective. [Guid 11.24]
- 3.7 The licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination. [Guid 11.2]
- 3.8 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of illegal firearms;
 - as the base for the organisation of criminal activity, particularly by gangs. [Guid 11.27]
- 3.9 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered. [Guid 11.28]
- 3.10 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:
- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
 - the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
 - notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing). [Guid 11.28]

Transfer:

- 3.11 Section 43 of the 2003 Act provides a mechanism which allows the transfer to come into immediate interim effect as soon as the licensing authority receives it, until it is formally determined or withdrawn. This is to ensure that there should be no interruption to normal business at the premises. If the police raise no objection about the application, the licensing authority must transfer the licence in accordance with the application, amend the licence accordingly and return it to the new holder. [Guid 8.93]
- 3.12 In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. Such objections are expected to be rare and arise because the police have evidence that the business or individuals seeking to hold the licence or business or individuals linked to such persons are involved in crime (or disorder). [Guid 8.94]

Police objections to new designated premises supervisors:

- 3.13 The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. [Guid 4.26]
- 3.14 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected. [Guid 4.27, Act S.38]

Decision - Review:

- 3.15 Having heard all of the representations (from all parties) the Sub-Committee must consider:
- 3.16 The steps the licensing authority can take are:
- 3.16.1 To modify the conditions of the licence;
 - 3.16.2 To exclude a licensable activity from the scope of the licence;
 - 3.16.3 To remove the designated premises supervisor;
 - 3.16.4 To suspend the licence for a period not exceeding three months;
 - 3.16.5 To revoke the licence [Act s.52].

- 3.17 In deciding which of these powers to invoke, the Sub-Committee should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should generally be directed at those causes and should always be no more than an appropriate and proportionate response [Guid s.11.20].

Decision - Transfer:

- 3.18 Having heard from all parties, the Licensing Sub-Committee may be minded to either:
- Grant the licence as per the transfer application;
 - Reject the transfer application [Act s.44 (5) (b)]

Decision – Vary DPS:

- 3.19 Having heard from all parties, the Licensing Sub-Committee may be minded to either:
- Grant the licence as per the vary DPS application;
 - Reject the vary DPS application [Act s.39 (3) (b)].

Background Papers :
None other than any identified within the report.

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