

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 19 JULY 2017**

COUNCILLORS

PRESENT (Chair) Derek Levy, Peter Fallart and George Savva MBE

ABSENT Chris Bond

OFFICERS: Ellie Green (Principal Licensing Officer), Charlotte Palmer (Licensing Enforcement Officer), PC Karen Staff (Metropolitan Police Licensing Officer), Dina Boodhun (Legal Services Representative), Jane Creer (Democratic Services)

Also Attending: On behalf of Kosk Restaurant:
Mr Ismail Koca (Premises Licence Holder and Designated Premises Supervisor)
Mr Hayirola Berkpinar (General Manager/Business Partner)

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WELCOME AND APOLOGIES FOR ABSENCE

Councillor Levy as Chair in the absence of Councillor Bond welcomed all those present and explained the order of the meeting.

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DECLARATION OF INTERESTS

NOTED there were no declarations of interest.

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**KOSK RESTAURANT, 269 HERTFORD ROAD, LONDON, N9 7ES
(REPORT NO. 40)**

RECEIVED the application made by Mr Ismail Koca for the premises situated at Kosk Restaurant, 269 Hertford Road, London, N9 7ES for a Variation of a Premises Licence.

NOTED

1. The introductory statement of Ellie Green, Principal Licensing Officer, including:

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- a. The application for consideration was for variation of a premises licence.
 - b. Kosk Restaurant was currently licensed to open until 00:00 latest with supply of alcohol until 23:45 and late night refreshment 23:00 to 00:00.
 - c. Mr Ismail Koca was the premises licence holder and designated premises supervisor and was seeking an extension of opening hours and late night refreshment until 05:00 daily.
 - d. A new plan had also been submitted to reflect the restaurant layout.
 - e. The premises was located in the Edmonton Cumulative Impact Policy (CIP) Area; therefore there was an automatic presumption against grant of applications outside the CIP core hours. As a result the Police and the Licensing Authority objected to the application in respect of the hours only. The updated plan has been accepted.
 - f. No additional conditions were proposed by the Licensing Authority nor offered by the applicant.
 - g. It was for the applicant to put forward mitigation and reasons why the premises should be an exception from the CIP policy.
2. The introductory statement of Charlotte Palmer, Licensing Enforcement Officer, including:
- a. The premises was located in the Edmonton CIP area, and the location was already an area of concern regarding crime and disorder and public nuisance.
 - b. The onus was on the applicant to show why an application outside the CIP policy would have no negative cumulative impact in the locality, but the applicant had offered no additional conditions in the operating schedule.
 - c. The premises was located in a mixed commercial and residential area. There were residential properties above the premises and in nearby side streets. There was concern that residents could be disturbed by noise from people arriving at and leaving the premises during the early hours of the morning, at a time when ambient noise levels were reduced.
 - d. The representation advised that complaints had already been received regarding noise from this premises.
 - e. The complaints and breaches of conditions had led to a lack of confidence in those running the premises.
 - f. It had taken almost nine months for an updated plan to be submitted. The premises licence holder had been far too slow to act despite knowing that it was a legal requirement that the plans be accurate.
 - g. The manager knew that there was an application pending and that officers would be visiting the premises on the evening of 16 June 2017, yet breaches of the licence were still discovered.
 - h. A further officer visit was made on Friday 14 July 2017 and the same conditions were being breached. At 21:40 eight people were sitting outside and 25 people in the back, which was a breach of Condition 6. A Think 25 poster was still not displayed, which was a breach of Condition 11. The most recent staff training records were not available, which was a breach

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- of Condition 9 and 10. An inspection report had been left by officers, but the training records had still not been received.
- i. If the premises licence holder could not comply with the licence at the time of an application, officers had little confidence that he would comply with a varied licence if granted.
 - j. It was officers' view that only the updated plan should be granted.
3. The statement of PC Karen Staff on behalf of Metropolitan Police Service, including:
 - a. The Police supported the Licensing Authority objection because of the noise complaints.
 - b. In the last six months there had been no reports of crime and disorder linked to the premises, but the longer the restaurant was open the more people would be coming and going at later hours and the potential for crime and disorder would be increased.
 4. There were no questions put to the Licensing Authority or Police representatives.
 5. The statement by Mr Hayirola Berkpinar, business partner and general manager of Kosk Restaurant, on behalf of the applicant Mr Ismail Koca, including:
 - a. Mr Koca had contacted a company to submit applications regarding the plan and licence variation, and was depending on them, but to date they had not completed all the work, though they had been paid.
 - b. Investment had been made in the premises in expectation of high demand. There were numerous local industrial businesses and cash and carry businesses and requests from workers to provide food until late. These customers had to go to Haringey and elsewhere at the moment.
 - c. If the restaurant worked together with the Council it could improve the area. The applicant was willing to do more than required by the licence to co-operate with the authorities. If the opportunity was provided, they could get the area better for the future.
 - d. In response to the Chair's prompts to demonstrate what steps would be taken to promote the licensing objectives, it was added that all staff training was done in terms of licensing activities and that he had copies of the training manuals, and the utmost would be done to keep records of training. The applicant offered to have security if needed to keep the necessary level of safety, and was willing to take any measures necessary.
 6. The applicant's representative responded to questions as follows:
 - a. Councillor Fallart raised that the application sought sale of food to 05:00 but did not include alcohol, which led to concern that customers might demand alcohol, and questioned proposals for protection of staff and why the application was made in this way. In response it was confirmed that staff were trained about the circumstances when they should refuse to sell alcohol, or report to managers and refuse service after licensed hours.

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- b. In response to queries about the nature of the business, it was advised this was a mixed sit-down and take-away restaurant.
- c. The Chair raised that a take-away could potentially mean more customers coming and going and asked what steps would be taken to protect neighbouring residents from disturbance. It was advised there was CCTV in the area, and that staff could keep monitoring parking spaces around or install CCTV cameras or door supervisors. In response to further queries it was advised that a suggested two door supervisors could be employed for a start. It was not known how much that would cost.
- d. In response to the Chair's question about evidence of training records, Mr Berkpinar advised that he had the records with him this morning. The Chair noted that records had not been produced by the Licensing Authority's requested deadline of Monday at 5pm.
- e. In response to the Chair's question about whether the applicant understood the meaning of the CIP, Mr Berkpinar stated that it was something to do with the rate of crime in the area.
- f. It was questioned why the application sought a change to opening hours to 05:00 seven days a week immediately rather than a trial of slightly extended hours on Fridays and Saturdays for example. Mr Berkpinar advised that the requirements were discussed before Ramadan. The premises was only permitted to apply for three temporary event notices per year, which would not be enough to cover the month of Ramadan and it was decided that this application would be prepared. It was his dream for Hertford Road to become like Green Lanes, Haringey. Apart from Haringey, the nearest restaurants supplying food in the early hours were MacDonalds at Bullsmoor Lane and at Waltham Cross.
- g. The Chair asked why no steps had been taken to correct the breaches of the licence following the notice given at the 16 June visit, and whether the applicant knew how to operate a licence. It was advised that Mr Koca did not speak good English. He had also had food safety issues. Mr Berkpinar clarified that he had provided training and consultancy and had completed the application form. This was the first application he had completed and it was an error that an opening hour of 07:00 had been written rather than 08:00 and the late night refreshment should correctly have been applied for to start at 23:00. It was confirmed that Mr Koca was the designated premises supervisor.
- h. Councillor Fallart voiced continuing concerns in respect of the take-away element and that customers may not necessarily take food home but could linger in the street, and asked if there would be professional security staff to move people on and ensure there was no disturbance to residents. Mr Berkpinar stated that the applicant would be willing to take any measures necessary to keep the local environment safe.
- i. In response to the Chair's queries, it was confirmed that customers currently had to buy food to be able to have alcoholic drink. The Chair questioned whether if there was no application to extend hours for alcohol that customers may have an expectation that alcohol should always be available with a meal during later hours. It was advised that this was a working class area and a majority of customers had been demanding

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longer opening hours. The alcohol licence would be respected and staff would be trained to operate it. He would be willing to record evidence of this on video.

j. Charlotte Palmer reported her visit to the premises, and wished to ask the same question that she put then: how would the applicant prevent residents from being disturbed by the numbers of extra people coming and going from the premises? Mr Berkpinar advised that the applicant was willing to take any measures necessary. When prompted that it was for the applicant to tell the hearing what those measures would be, Mr Berkpinar suggested that he could display a sign and could advise customers verbally.

k. The Chair noted that no steps that the applicant intended to take to promote the licensing objectives had been set out in the written application, and neither had they been stated in response to questions during the hearing. In the case of a CIP, the onus was on the applicant to persuade the sub-committee why they should be an exception to the policy, and asked again what would be done, how and by whom. Mr Berkpinar stated that he had been trying to explain, and if necessary he would employ door supervisors.

l. In response to Charlotte Palmer's question about the capacity of the restaurant, it was confirmed that it could hold around 175 people, including the outside areas at the front and back.

m. In response to further queries, it was clarified that the restaurant did not have any car parking and that customers generally walked or parked elsewhere including in nearby residential streets if there was space.

n. Councillor Savva asked about the claim that by extending the hours this would help to improve the area. It was advised that houses locally were worth below the London average and this was a high crime area, but that the applicant was trying to make a good business there and to attract investors, and that the area could develop like Green Lanes, Haringey.

o. The Chair noted that the sub-committee must focus on the licensing objectives and that this application would lead to more people coming into a quiet area at a time of lower ambient noise to a premises without a car park and without noise control and questioned how later opening hours may not raise crime. Mr Berkpinar stated that there were a lot of supermarkets locally which offered alcohol during later hours. The Chair noted that those licences existed before the existence of the CIP and, based on what was already there, questioned why there would not be a cumulative impact and how this application could be justified. Mr Berkpinar advised that he had been telling the sub-committee about his willingness to work together with the authorities and that he would do whatever he was told was necessary.

7. The summary statement of Ellie Green, Principal Licensing Officer, including:
 - a. Having heard all the representations, it was for the Licensing Sub Committee (LSC) to consider whether this variation application was appropriate and in support of the licensing objectives.

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- b. It was for the LSC to determine the application by taking the appropriate steps as set out in para 6.16 of the report.
 - c. The sub committee's attention was drawn to the relevant Home Office guidance and the Enfield Licensing Policy, as set out on pages 3 – 4 of the report.
8. The summary statement of Charlotte Palmer, Licensing Enforcement Officer, including:
- a. The applicant had failed to prove compliance with the current licence.
 - b. Even if this premises was not in a CIP area, the Licensing Authority would have objected to the application.
9. The representatives of the Police and the applicant did not wish to make a summary statement.

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 Panel retired, with the legal representative and committee administrator, to consider the application further and then the meeting reconvened in public.

2. The Chairman made the following statement:

“In considering this application, the Licensing Sub Committee (LSC) was concerned that the written submission conveyed absolutely no steps that would be taken to promote the licensing objectives, or demonstrate that there would be no negative cumulative impact as a result of extended hours for late night refreshment.

The oral submission of the applicant at the hearing failed to offer any such steps either; and under repeated questioning, the business partner who spoke exclusively on behalf of the applicant, licence holder, and designated premises supervisor, was still unable to provide any comfort or any confidence that he/they understood these licensing objectives at any level, and particularly how they needed to be pro-actively promoted in applications such as the one under consideration this morning.

The LSC was fully persuaded by the objections submitted by the Licensing Authority, and most compellingly (in summary) that the licence holder has already failed to prove compliance with the current licence, and that multiple and repeated apparent breaches highlighted

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on 16 June 2017 were observed as recently as the visit made to the premises on Friday 14 July.

On that occasion, previously given advice and guidance had still not been heeded, and several of the breaches were continuing.

Furthermore, with specific regard to training records, the licence holder was requested to finally provide these to the Licensing Authority by 5pm on Monday 17 July. These records had still not been furnished. We were further told that it had taken as long as nine months for the licence holder to provide updated plans of the premises to be applied to the licence.

The LSC felt that the closing comments from the Licensing Authority were particularly compelling: that even if a Cumulative Impact Policy (CIP) was not in place, the objections to such extension of hours as being sought would remain because of the wide range of concerns it had over the capacity of the licence holder even to operate the extant licence effectively.

However, where a CIP does apply, it is incumbent upon the applicant to demonstrate consideration and even a basic understanding of potential cumulative impact when setting out the steps, if any, they will take to promote the licensing objectives in their application.

On this occasion, there was no compelling case made for exemption from CIP – in fact, no case was made at all for the LSC to be persuaded otherwise.

As such, the application for extended hours to allow for the licensable activity of late night refreshment until 05.00hrs was rejected by the Licensing Sub-Committee.”

3. The Licensing Sub-Committee resolved to grant the licence in part, to the extent that the amended plan now be added to the licence by way of variation, but that the licence shall otherwise continue to be operated according to existing hours and conditions.