

## Annex 4



### **LICENSING AUTHORITY REPRESENTATION**

#### **ADDITIONAL INFORMATION**

**Name and address of premises:** Kalamis Fish Restaurant  
112 High Street  
Enfield  
EN3 4ES

**Type of Application:** Premises Licence Review

**Detailed below is additional information not previously included in the review application submitted on 06/10/17:**

**06/10/17** - 23:20 - 23:35 – Out of Hours Licensing Enforcement Officers (CPX/VPK) visited the premises and delivered the review application to the DPS. Advised to display blue notice, to give application to PLH and get legal advice. Advised that Officers cannot give any more advice in relation to how to comply with Licensing Act 2003 or Health Act 2006 as they have already done so extensively and they are still not complying so no choice but to review the licence. Recommended they get independent advice. There were 19 people in the rear room (breach). DPS claimed that they were all his friends. Staff (including Orhan) removed shisha pipes from the area whilst officers were there and people started to leave, one with a small suitcase. DPS said that he had complied with the conditions - he showed the officers the training book he had printed off but when they opened it it was empty with no training records having been documented - breach. Officers reminded him that the plan was still not correct and that no one should be in the rear room after 22:00. Panels had been put back up meaning the room was more than 50% enclosed – breach of Health Act 2006. VPK advised they must be removed along with the runners. DPS said he would sort it all out and invite the officers down to check next week.

**17/10/17** - Minor Variation submitted with updated plan but it was not accurate - steps missing, fixed furniture missing – Officer called PLH, left voicemail and advised that he needed to correct it and that officers would not process the application yet.

**18/10/17** - PLH called. Officer advised application returned. Recommended he read the plan guidance on line and update the plan and resubmit - told him to also look at the last page of the review appendices to see the bits the officer had drawn on the plan - he claimed that he had not seen the application. Officer advised him it was hand delivered to the premises along with the blue notice. He advised that he had seen the blue notice, that the DPS had shown him that and said that the council had put it up. Officer advised him to read it and to get legal advice as it is an application to revoke the licence as the plans are wrong, they haven't complied with licence conditions or the Health Act 2016. He agreed to read the review.

**20/10/17** – Email from PLH advising that the planning permission for the rear of the premises states:

'The canopy area to the rear and side of the site shall be available for the use of customers only between the hours of 08:00 - Midnight Mondays to Saturdays and 09:00 - 22:00 on Sundays and no other time.'

He went on to say that he would be happy to trade to the above hours and would like to make an application to extend the hours to the rear on the premises licence.

**24/10/17** – Email sent to PLH advising that as the PLH it is up to him whether or not he submits a premises licence variation but that as the Licensing Authority is currently reviewing the licence it is very likely that any extension of hours would be objected to by the Licensing Authority.

**25/10/17** - Minor Variation resubmitted to update plans still not accurate. Contacted PLH and provided list of walls and doors that were missing. Advised would not process application until accurate.

**26/10/17** – Further updated plan submitted. Still not accurate. Emailed PLH plan and circles area where wall was missing. Short of drawing the plan for the PLH Officers

**27/10/17** – Plan submitted – from officers memory it looked correct.

**07/11/17** – 14:45 - 15:05 - Senior Licensing Enforcement Officer (CPX) and Police Licensing Officer (KS) visited the premises and carried out a full licence inspection with Orhan Kurt. No customers using the front restaurant area. Several using the rear area, some playing a game, others sitting drinking non alcohol drinks and talking. Small children with adults in rear area. Following issues discovered: C11 - Alcohol zone poster not on display, C15 - No personal licence holder on the premises during inspection – when asked Orhan advised that he would sell alcohol if someone wanted to buy it and was having a meal. C10 - Unable to check CCTV. Orhan knew the password but not how to check the system. C17, 18, 19 – relate to evenings so will be checked during an evening visit. Training records seen for three staff - advised to include licence conditions as part of training. Refusal book seen - 1 entry - recommend including what they tried to buy and a brief description of them. Sound checks - records seen going back to 27/09/17 - recommend staff sign them to show who has done the check and DPS checks them at the end of the day / night. Checked plans in case anything else had changed since last visit - one door missing from plan and another area in the main restaurant area did not match the submitted plans. The back wall of the rear area consisted of one solid side and one half open panel. Health Act 2006 offence - back room was more than 50% enclosed and shisha pipes in use - plastic sides were in place. Some were removed when the officer pointed this out but still more than 50% enclosed. Officers particularly concerned as there were very young children in a smoky environment. See **Appendix 16** for photos and **Appendix 17** for Inspection Report.

**08/11/17** – Officer (CPX) sent email to PLH advising of issues with plan, attached the poster he needed to display and a copy of the inspection report and plan. **See Appendix 18.**

**09/11/17** – Email from PLH complaining about police attendance at the premises and plan issues. See **Appendix 19 – 23** for emails to and from officer.

The number of failed attempts that it has taken the PLH to submit accurate plans has again led to a lack of confidence in their ability to run a licensed premises. Short of drawing the plan for the PLH Officers could not have helped them more. However, it is his responsibility to ensure that the plans are correct. The continued licence breaches and breaches of other legislation have meant that council and police officers have had to repeatedly visit the premises to see if the issues have been resolved. Had the Premises Licence Holder ensured that he was complying with the licence and other legislation from the start there would have been no need for officers to keep visiting. This is a simple concept which he

seems unable to grasp, instead complaining about Officers attendance at the premises and arguing with them about how they carry out their duties.

## **Planning**

Point 18 of the Planning Inspectorate Appeal Decision states that the development at the rear of the premises is to be carried out in accordance with the approved plans. Point 8 of the appeal decision notice refers to the 'proposed wooden pitched roof' and Point 12 of the appeal decision report states 'the proposed roofing is to be constructed from dark brown timber...the use of dark timber and a pitched roof are appropriate in both terms of material and design. The introduction of a solid roof structure would, to an extent, muffle noise from the seating area which would be of benefit to residents of the flats and residents of no 1 Clarence Road'

See **Appendix 24**

The current roof of the rear area is not a solid wooden structure as half is a retractable canopy. It is recommended that the PLH contact to see whether they are legally permitted to use the rear area until the hours stated in the appeal decision under these circumstances.

Insufficient planning permission cannot prevent a licence from being granted, however, **if businesses trade without planning permission they will be guilty of an offence under planning law and may be prosecuted by the Planning Enforcement Team.** Therefore businesses must have the relevant planning permission AND licence in order to trade legally. If the times and activities on both are not the same, businesses must stick to the lesser times / activities as failure to do so will be a breach of either planning or licensing legislation.