

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 7 MARCH 2018**

COUNCILLORS

PRESENT (Chair) Derek Levy, George Savva MBE and Glynis Vince

ABSENT

OFFICERS: Ellie Green (Principal Licensing Officer), PC Karen Staff (Metropolitan Police Licensing Officer), Catriona McFarlane (Legal Services Representative), Jane Creer (Democratic Services)

Also Attending: On behalf of Metropolitan Police Service:
Mr James Rankin, Barrister, Francis Taylor Building
Applicant, Elvan Food Centre: Mr Uygar Altun
Applicant, The Hyde Arms PH: Mr Mansur Duzgun

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WELCOME AND APOLOGIES FOR ABSENCE

Councillor Levy as Chair welcomed all those present at the hearing, which had been postponed due to adverse weather conditions the previous week, 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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ELVAN FOOD CENTRE, 614-616 HERTFORD ROAD, ENFIELD, EN3 5TD

RECEIVED

- (1) the application made by Mr Uygar Altun for the premises now known as and situated at Elvan Food Centre, 614-616 Hertford Road, Enfield, EN3 5TD for a transfer of Premises Licence (LN/201100797).
- (2) the application made by Mr Uygar Altun for the premises now known as and situated at Elvan Food Centre, 614-616 Hertford Road, Enfield, EN3 5TD for the Variation of the Designated Premises Supervisor to be named as Mr Uygar Altun on Premises Licence LN/201100797.

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NOTED

1. The introductory statement of Ellie Green, Principal Licensing Officer, including:
 - a. There were two applications for consideration: a transfer application and a vary DPS application.
 - b. The premises was situated at 614-616 Hertford Road, and had been known by various names, including Mevlana Food Centre.
 - c. The current premises licence permitted opening 24 hours and supply of alcohol from 08:00 to 02:00, as set out in Annex 2 of the report.
 - d. The original premises licence was held by Mr Tekim Teymuroglu, with Mr Abdullah Gul as the designated premises supervisor (DPS).
 - e. Mr Uygur Altun had applied to hold the licence in his own name and was present at this hearing to represent himself.
 - f. Mr Altun had simultaneously applied to vary the DPS, naming himself as DPS, as set out in Annex 4 of the report.
 - g. It was confirmed that the application fees had now been paid in full.
 - h. The Police objected to both applications on the grounds that it would undermine the Prevention of Crime and Disorder licensing objective. The police representation was set out in Annex 5 of the report.
 - i. Within Annex 5 decision notices KMS1 and KMS2 were referred to, but were not reproduced in the agenda pack. Apologies were given for the omission, but it was confirmed that those exhibits had been sent to the applicant by email and there had been subsequent communication with the applicant, and copies were available today.
 - j. On 14/2/18 Mr Teymuroglu submitted notification to the Licensing Team that he wished to surrender the premises licence, but this was not accepted or valid as set out in para 2.7 of the report, and the hearing would proceed as per Section 43 of the Licensing Act 2003. It was confirmed that Mr Teymuroglu had been advised and would be notified of the outcome of the hearing.
 - k. Mr James Rankin from Francis Taylor Building was present to represent PC Karen Staff. The Police representation advised that should the transfer application by Mr Altun be granted, they sought an undertaking to submit a minor variation to modify times and conditions. Mr Altun had notified the Police and the Licensing Team of his agreement to that, if the application was granted.

2. The statement of Mr James Rankin, on behalf of the Metropolitan Police Service, including the following:
 - a. The primary position of the Police was the fundamental objection to the transfer and vary DPS applications. It was only if the sub-committee was minded to grant they would insist on the undertaking to submit a minor variation as described. He wanted to make it clear that the Police did not regard Mr Altun as capable or fit to hold a licence for this premises.

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- b. The policy considerations were set out on page 3 of the report, highlighting that “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...”. This was one of those cases. Policy 10.1 was also relevant: “particular regard will be given to evidence identifying any history or pattern of practice which impacts upon the licensing objectives.”
 - c. The Police position was clear regarding Mr Altun running this premises (where he had been involved since July 2017) and another premises (Asya Wine Centre): that he was incapable of running either premises properly. This was based on the evidence set out in Annex 5 of the report.
 - d. The Police objection detailed a long history of malfeasance and criminality at Asya / Hertford Wine Centre. Analysis started in March 2012 when the first of a number of breaches of licence conditions and attempts to avoid duty were noted, including discovery of 1000 non-duty paid cigarettes and 54 bottles of non-duty paid spirits. A warning letter was sent that such behaviour would not be allowed to continue.
 - e. Subsequent inspections showed repeated breaches of the licence conditions.
 - f. Mr Altun changed his name in January 2014.
 - g. A second instance when non-duty paid cigarettes were sold to an officer, happened in August 2014. Subsequently the Licensing Authority applied for a review of the licence with the aim of revoking it. The decision KMS1 referred to the initial decision in February 2015 to revoke, which went to appeal and the committee’s decision was upheld (KMS2).
 - h. After the licence was revoked, a new premises licence application for Asya Wine Centre was granted to a different person, with the condition that Mr Altun would not have any involvement with the business.
 - i. In September 2015 a third inspection again detected non-duty paid goods, found between two locked doors. A vehicle belonging to Mr Altun was parked in the back yard: it appeared this was for the purpose of storing goods so there were not large amounts in the shop itself.
 - j. From February 2016 the Council started receiving information that illicit goods were being sold at Elvan Food Centre. The four occasions when officers visited were detailed in Annex 5 and the behaviour of Mr Altun in respect of this premises for which he was applying for the licence was reported, starting from June 2017.
 - k. Shortly before this application was submitted, a visit to Elvan Food Centre on 25/1/18 found a number of packets of foreign cigarettes underneath the counter, and alcohol in the fridges with foreign labelling.
 - l. Police were thoroughly dissatisfied with Mr Altun as a proper person to hold a premises licence.
3. The panel members confirmed they had no questions in respect of the Police representation.

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4. The statement of Mr Altun, including the following:
 - a. Information given had been about another business
 - b. He had since opened another page and did not want to be like that or to do those things.
 - c. He just wanted one chance to get the business working the right way.

5. Mr Altun responded to questions as follows:
 - a. The Chair remarked that it had been heard in representations that Mr Altun had already had four chances, including one in respect of this business, and noted that it had taken quite a long time for the application fees to be paid in full for this application. He asked when Mr Altun changed his attitude and what would he do now to be a more effective licence holder. Mr Altun stated that what had happened had been his first business and he knew what he needed to do now as he had the experience. In response to further queries from the Chair, Mr Altun said that he did not often have hidden compartments to hide products.
 - b. In response to Councillor Vince's questioning of the evidence that Mr Altun had seen the light, and how he would guarantee being law-abiding in the future, Mr Altun advised he was going to do everything about getting stock properly and controlling staff, and he would stay on the premises. Most of what had happened in the past was not his fault and was not done by him.
 - c. In response to Members' further queries why he did not previously take advice seriously, and why he did not heed the requirement to keep away from Asya Wine Centre, and what assurances he could give that his behaviour would be different and he would be worthy of holding a licence, Mr Altun re-iterated that he had experience from the last business and of losing a business, and he wanted to operate legally.
 - d. In response to queries regarding any training received, Mr Altun confirmed that he had received training from NARTS in October 2017.

6. The closing statement of Ellie Green, Principal Licensing Officer, including:
 - a. Having heard the representations from all parties it was for the Licensing Sub-Committee to consider whether the transfer and the vary DPS applications were appropriate to grant or reject.
 - b. Guidance from the Home Office and the Council's Licensing Policy was set out on page 3 of the agenda pack.

7. The closing statement of Mr James Rankin, on behalf of the Metropolitan Police Service, reminding the panel of the most recent visit to Elvan Food Centre on 25/1/18, when the same pattern as previously had been seen.

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

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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:

“Having read, heard, and listened to all the representations, the Licensing Sub-Committee resolved to refuse both the application for a transfer of a premises licence for the Elvan Food Centre into the name of Mr Uygur Altun, and the variation of the Designated Premises Supervisor to be in his name.

The case presented by the Metropolitan Police Service, through its representative Mr Rankin, was made in full, supported his assertion that the exceptional circumstances prompting the police objection prevailed, and was compelling.

This was borne out by the chronological evidential detail contained in the bundle of papers, and was in clear accord with the Council’s Licensing Policy 10.1, and in particular 12.1.9 dealing with “Special Factors for Consideration”.

The Licensing Sub-Committee gave weight to the particular issue whereby the premises under consideration received a routine inspection during January 2018. At the time of that visit, the evidence was that Mr Altun appeared to display and be repeating the same patterns of behaviour and disregard of licensing principles that had brought him before past Licensing Sub-Committees regarding another premises.

As such, this Licensing Sub-Committee was persuaded by the contention advanced by Mr Rankin that Mr Altun lacked all capability to promote the licensing objectives appropriately, and reflected a complete lack of fitness “to hold a premises licence in this Borough, or anywhere in the Kingdom”.

The Licensing Sub-Committee sought to gain evidence from Mr Altun that might demonstrate the claim that he had learned from previous business and licensing failures. Under questioning, he failed repeatedly to answer every concern raised by panel members, and thereby failed completely to satisfy the Licensing Sub-Committee that he was a reformed character.

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This, together with the litany of historical evidence before the Licensing Sub-Committee, materially persuaded the Licensing Sub-Committee to come to its decision.”

3. The Licensing Sub-Committee resolved that both the applications be refused.

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THE HYDE ARMS, PUBLIC HOUSE, 137 VICTORIA ROAD, LONDON, N9 9BB

RECEIVED the application made by Mr Mansur Duzgun for the premises now known as and situated at The Hyde Arms Public House, 137 Victoria Road, London, N9 9BB for a transfer of Premises Licence (LN/200501812).

NOTED

1. The introductory statement of Ellie Green, Principal Licensing Officer, including the following:
 - a. The current premises licence permitted opening hours and various licensable activities from 11:00 to 00:30 latest, and was included as Annex 2 of the report. The original licence holder was Mr John Martin Cross.
 - b. This application to hold the licence in his own name was from Mr Mansur Duzgun, and was included as Annex 3 of the report.
 - c. Mr Duzgun had simultaneously applied to vary the DPS to Ms Re-Anne Cunsamy: this application was included as Annex 4 of the report.
 - d. The Police objection to the licence transfer application was set out in Annex 5 of the report.
 - e. Mr Duzgun's response to the representation was included as Annex 7 of the report.
 - f. Mr Duzgun had also notified the Police and Licensing Team that should the transfer be granted he would undertake to submit a minor variation application to modify the licence conditions.
 - g. The Police did not object to Ms Re-Anne Cunsamy as DPS, but as the application was made by Mr Duzgun it would not be valid if the transfer was not granted.
2. The statement of Mr James Rankin, on behalf of the Metropolitan Police Service, including the following:
 - a. The Police were no longer objecting to the transfer application, but were unhappy with the state of affairs in respect of the existing premises where Mr Duzgun held a premises licence: Kalamis Fish Restaurant, which had been subject to review proceedings. There was a lengthy and detailed chronology of contact with the Enforcement Team and Mr Duzgun in respect of that premises.

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- b. At a Licensing Sub-Committee hearing on 29/11/17 in respect of Kalamis Fish Restaurant, the Police were content that the licence was suspended for two weeks to be satisfied that all conditions were in compliance. It was difficult to suggest that Mr Duzgun was not a fit person to hold this licence if conditions at Kalamis Fish Restaurant were in compliance.
 - c. Police would like Mr Duzgun to apply for a variation of conditions within two weeks. They wanted it to be known that this will be closely monitored. If a pattern of behaviour was repeated, there would be no hesitation in coming forward and applying for a review of these premises as well.
 - d. Confirmation was given at the Chair's request that the Police were not asking for the application to be rejected; that Mr Duzgun had agreed to make a variation application within two weeks; and that the sub-committee was not permitted to apply conditions on a transfer application.
3. The statement of Mr Duzgun, applicant, including:
- a. He confirmed he was happy to make the variation application.
 - b. He understood there had been problems at Kalamis Fish Restaurant, but he sub-let that property and was a third party to everything that happened in that venue. Also some of the allegations about drugs and noise related rather to the next door pub car park.
 - c. He confirmed that there had been dialogue with officers and a variation application would be submitted within two weeks.
 - d. His only concern was the need for an agent to be employed, which he considered unnecessary and expensive. He would be running this property himself. In response, PC Staff clarified that, as premises licence holder, Mr Duzgun was responsible for what went on in the property. Issues at Kalamis Fish Restaurant were not fixed until an agent was employed. Therefore there was concern now that Mr Duzgun was taking on a larger property and that problems may arise again.
 - e. Mr Duzgun confirmed his understanding, and that he would employ an agent for now. PC Staff confirmed that an agent would not be required permanently if there was compliance with the licence conditions.
 - f. Parties had agreed an amendment in respect of checking CCTV was working each day, to give a 48 hour grace period.

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.

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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:

“The Licensing Sub-Committee was advised at the hearing by Mr Rankin – representing the Metropolitan Police Service (MPS) – that the position of the MPS had modified from its earlier stance taken to object to the transfer of the premises licence for The Hyde Arms into the name of Mr Mansur Duzgun.

The Licensing Sub-Committee heard that despite certain residual reservations over another premises, the objection to this transfer was to be withdrawn.

We further heard that the MPS and Mr Duzgun had come to an accord in terms of the strengthened conditions being applied to this licence. Mr Rankin made it clear that the modified position of the MPS was itself conditional upon Mr Duzgun agreeing to submit a written application to vary the now agreed conditions; and he also sought an oral undertaking from Mr Duzgun that he will make such an application within two weeks.

Mr Duzgun duly gave that oral undertaking to the satisfaction of the Licensing Sub-Committee, enabling it to formally resolve that the application for a transfer of this premises licence be granted.”

3. The Licensing Sub-Committee resolved that the application be granted.

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MINUTES OF PREVIOUS MEETING

RECEIVED the minutes of the meeting of the Licensing Sub-Committee held on Wednesday 29 November 2017.

AGREED that the minutes of the meeting of the Licensing Sub-Committee held on Wednesday 29 November 2017 be confirmed and signed by the Chair as a correct record.