

MUNICIPAL YEAR 2019/20 REPORT NO.

COMMITTEE:
Licensing Sub-Committee
18 December 2019

REPORT OF :
Principal Licensing Officer

LEGISLATION :
Licensing Act 2003

Agenda - Part	Item
<p>SUBJECT: Application for Temporary Event Notices</p> <p>PREMISES: DOST HANE, 77 BOUNCES ROAD, LONDON, N9 8LD.</p> <p>WARD: Lower Edmonton</p>	

1 LICENSING HISTORY:

- 1.1 Premises Licence (LN/200502330) was issued to Mertcan Ltd, on 28 December 2005, following a conversion. The premises operated as a restaurant.
- 1.2 Mertcan Ltd dissolved in January 2013.
- 1.3 A new premises licence (LN/201400543) was granted on 30 September 2014, naming Mr Aydin Guven Acay as the Premises Licence Holder and Designated Premises Supervisor (DPS). The application was not subject to representations from the Responsible Authorities.
- 1.4 On 15 June 2015, a transfer application was granted naming Berf Catering Ltd as the Premises Licence Holder. This was not subject to any representations.
- 1.5 The Director of Berf Catering Ltd is Mrs Songul Aydin.
- 1.6 On 4 August 2015, Songul Aydin became the DPS – this vary DPS application was not subjection to any representations.
- 1.7 On 29 September 2015, a variation application was granted with extended hours, following mediation relating to times and conditions with the Responsible Authorities.
- 1.8 On 15 April 2016 an application was made by the Licensing Authority for the review of Premises Licence LN/201400543.
- 1.9 The review application related to the prevention of public nuisance licensing objective and was made because the premises had breached a noise abatement notice as a result of noisy singing and music.
- 1.10 The authority considered that it was appropriate, for the promotion of the licensing objectives, to remove live music from the Premises Licence, and to modify conditions.

- 1.11 On 8 June 2016, the Licensing Sub-Committee heard the review application. The application, decision notice and minutes of that hearing can all be found online at this link:
<https://governance.enfield.gov.uk/ieListDocuments.aspx?CId=217&MID=9671#AI37112>
- 1.12 To summarise the outcome of that hearing, the Licensing Sub-Committee resolved that the premises licence conditions be modified, namely relating to controlling music and noise from the premises. Furthermore, the entitlement to deregulate live music was disappplied by specifying it was a licensable activity and noise related conditions applied throughout the hours of operation.
- 1.13 The premises has benefitted from TENS for the Christmas period in 2016,2017 and 2018, namely on Christmas Eve, Christmas Day and New Year's Eve until 3am latest, which were not subject to any representations.
- 1.14 No other TENS have been applied for at this premises during this calendar year.
- 1.15 A copy of the current premises licence is attached as Annex 1.

2.0 THIS APPLICATION:

- 2.1 On 5 December 2019, the Licensing Team received three TEN applications for Dost Hane, as follows:
WK/219043151 – 24 and 25 December 2019, from 23:00 to 03:00;
WK/219043156 - 27 to 29 December 2019, from 23:00 to 03:00; and
WK/219043160 - 31 December 2019 to 1 January 2020, from 23:00 to 03:00.
- 2.2 The applicant is Mrs Songul Aydin.
- 2.3 The consultation period for these TENS commenced on 6 December 2019 and closed on 10 December 2019 (three working days).
- 2.4 The Licensing Authority on behalf of Environmental Health and the Metropolitan Police were consulted in respect of the application.
- 2.5 A copy of the three TENS applications are attached as Annex 2.

3.0 RELEVANT REPRESENTATIONS BY STATUTORY CONSULTEES:

- 3.1 Environmental Health: Representations have been made by the Licensing Authority who undertake the Environmental Health function, objecting to the three TEN applications in their entirety. Environmental Health are satisfied that allowing the premises to be used in accordance with the notices in Annex 2 would undermine the licensing objective: prevention of public nuisance.
- 3.2 Metropolitan Police: did not make any representations.

- 3.3** The Licensing Authority's objection and Counter Notice is attached as Annex 3 and 4 respectively.
- 3.4** The email correspondence between the Licensing Team and Songul Aydin regarding the TENs is attached as Annex 5.
- 3.5** The TEN for 27 to 29 December 2019, from 23:00 to 03:00 (WK/219043156) has subsequently been withdrawn.
- 3.6** Songul Aydin advised on 13 December 2019 that she wishes the remaining TEN applications to be determined by the Licensing Sub-Committee. Therefore, the Counter Notice issued on 12 December 2019 must be discounted.
- 4.0** **PROPOSED LICENCE CONDITIONS:**
- 4.1** The conditions of the premises licence are set out in Annex 1. The Licensing Sub-Committee may decide not to give a counter notice under section 105 of the Act and instead may impose one or more conditions on the notice (TEN) in accordance with section 106A(2) of the Act.
- 5.0** **RELEVANT LAW, GUIDANCE & POLICIES:**
- 5.1** The supply of alcohol, provision of regulated entertainment, and sale of late-night refreshment are licensable activities under the Licensing Act 2003. Authorisation from the Council, in its role as the licensing authority, is required in order to carry on any of these activities at premises within the borough.
- 5.2** The Act provides several forms of authorisation for different scenarios. For infrequent, one-off events with no more than 499 persons in attendance, premises users may give a temporary event notice. This is a light-touch form of authorisation, and providing the proposed event meets statutory criteria and the premises user has satisfied prescribed notification requirements, the event will automatically be deemed to be authorised. This authorisation may, however, be overridden if a counter-notice is issued by the licensing authority in respect of the event, either by virtue of a breach of the statutory limits, or as a result of objections raised by a statutory consultee.
- 5.3** TEN's may be given in respect of standalone events or used in conjunction with a premises licence or club premises certificate to extend the scope of the permanent authorisation.
- 5.4** Standard TEN's may be given no later than 10 working days prior to a proposed event. When giving a TEN, the premises user must also serve copies on the relevant police and environmental health authorities

(unless making an online application, in which case the licensing authority must fulfil this requirement), and those bodies may give notice of any objections to the proposed event within 3 working days of receipt. Where a valid objection to a standard TEN is received by a licensing authority, a hearing must be convened to consider the objection. The Act also provides for a smaller number of late TEN's to be given per year, no later than 5 working days prior to an event. An objection against a late TEN has the effect of an immediate veto to the proposed event.

- 5.5 Under the scheme of delegation adopted by the Council, the Licensing Sub-Committee is responsible for the exercise of many of the functions of the licensing authority, including determination of applications where representations have been received.
- 5.6 In common with other decision-making powers under the Licensing Act 2003, the licensing authority is required to carry out its functions with a view to promoting the licensing objectives, which are:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance; and
 - the protection of children from harm.
- 5.7 The authority must also have regard to its Statement of Licensing Policy, and to the statutory guidance issued by the Home Office under section 182 of the Act. Chapter 7 of the guidance contains specific provisions in respect of the consideration of temporary event notices.
- 5.8 The licensing authority's powers in respect of temporary event notices are not of grant or refusal, but rather of intervention and veto. The licensing authority may only intervene if objections around the effect of the event on the licensing objectives are raised and upheld by the authority.
- 5.9 The authority may issue a counter-notice, which vetoes a proposed event, if objections were raised by the police or environment health authorities to the event, and, having regard to that objection, the authority considers it appropriate for the promotion of a licensing objective to issue such a notice.
- 5.10 If the authority decides not to issue a counter-notice following objections, and the TEN relates to premises which are subject to a premises licence or club premises certificate, it may decide to impose one or more conditions from the licence or certificate upon the TEN, if this is considered appropriate for the promotion of the objectives.
- 5.11 The Sub-Committee must ensure that all licensing decisions have a direct relationship to the promotion of one or more of the licensing objectives. Every matter should be considered on its merits, and there must not be a 'blanket policy' to the extent that it is applied so rigidly that an exercise of discretion in each individual case is precluded.

Items must be considered with regard to the principles of fair process and the Human Rights Act.

5.12 It is considered inappropriate for licensing officers involved with the administration of TEN's to make recommendations. However responsible authority officers may raise objections in respect of temporary events where concerns arise.

6.0 OPTIONS AVAILABLE TO THE LICENSING SUB-COMMITTEE

6.1 Having considered the temporary event notice, the objection notice(s) received from responsible authorities and any further representations made by parties to the hearing:

a) The Sub-Committee must decide whether to give the premises user a 'counternotice' under section 105(2) of the 2003 Act, if they consider it appropriate for the promotion of a licensing objective to do so, setting out the full reasons for this decision;

b) If a counter-notice is not issued, then the Sub-Committee must resolve to take no action, and the deemed authorisation will permit the event to take place as proposed.

6.2 Full reasons must be given in support of any decision made by the Sub-Committee.

6.3 The premises user will have a right of appeal to a magistrate's court against a decision to issue a counter-notice. The objecting responsible authorities will have a right of appeal to a magistrate's court against a decision not to issue a counternotice. Any appeal must be brought within 21 days of notification of the decision, but no later than 5 working days prior to the first day of the proposed event.

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

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