

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 22 JANUARY 2020**

COUNCILLORS

PRESENT (Chair) Chris Bond, Mahym Bedekova and Maria Alexandrou

ABSENT

OFFICERS: Ellie Green (Principal Licensing Officer), Charlotte Palmer (Senior Licensing Enforcement Officer), Catriona McFarlane (Legal Services Representative), Jane Creer (Democratic Services)

Also Attending: (Item 3)
2 representatives on behalf of Euro International (applicant)
(Item 4)
3 representatives on behalf of Fresh Food Centre (applicant)

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WELCOME AND APOLOGIES FOR ABSENCE

Councillor Bond (Chair) 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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**EURO INTERNATIONAL, 212-214 CHASE SIDE, ENFIELD EN2 0QX
(REPORT NO. 187)**

RECEIVED the application made by Mr Ali Serbet for the premises situated at Euro International, 212-214 Chase Side, Enfield, EN2 0QX for a New Premises Licence.

NOTED

1. The introduction by Ellie Green, Principal Licensing Officer, including:
 - a. This was a new premises licence application. At the Licensing Sub Committee (LSC) hearing in December, the applicant Mr Serbet had attended to request an adjournment to allow the applicant to obtain legal advice, which was granted.
 - b. A similar premises licence at the premises was surrendered by Mr Hikmet Samsun on 19 October 2019. Mr Serbet had applied for the

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same hours as the previous licence: opening hours 06:30 to 00:00 and supply of alcohol (off sales) 08:00 to 00:00 daily.

- c. It should be noted that Mr Serbet had former involvement in the premises. This formed the basis of the Licensing Authority and Police's objections. Those representations were based on the prevention of crime and disorder licensing objective. The Licensing Authority sought additional conditions (set out in Annex 7 of the report) to be included on the licence should LSC be minded to grant the application, and the applicant had agreed to all the conditions proposed.
 - d. The applicant had now provided a written representation, set out in Annex 6.
 - e. Mr Serbet was in attendance at the hearing, with Mr Ali Hussain of AHS Law. Charlotte Palmer was in attendance, representing the Licensing Authority. PC Karen Staff sent apologies on behalf of the Police, but had no further information to add.
2. The statement of Mr Hussain on behalf of Mr Serbet, the applicant, including:
- a. The core issue around the application was whether the licensing objectives could be met.
 - b. There had been incidents at these and related premises, and the concerns of the Police and Licensing Authority were understood.
 - c. He wanted in no way to undermine those concerns, but Mr Serbet had taken advice on and tried to address them so there would not be problems in the future.
 - d. The applicant's representation was highlighted, and it was submitted that going forward the licence could be safely and properly granted.
 - e. The 2016 incident was subject to court proceedings and the charges were dismissed in respect of whether Mr Serbet was involved in selling contraband cigarettes. It was asked that undue weight was not placed on those previous matters, which were also some time ago.
 - f. In respect of the further incident in August 2018 at the Bush Hill Park premises where non-duty paid cigarettes were found on Mr Serbet; he told authorities at the time that these cigarettes were given to him as a gift by someone who was visiting. The packets were in a carton and Mr Serbet was going to smoke them and not sell them.
 - g. In respect of the incident on 3 December 2019, that sale was done by a staff member, Mehmet, and as soon as Mr Serbet was aware of that sale Mehmet was dismissed. In the circumstances Mr Serbet took appropriate action. The sale was made without his knowledge and he made no financial gain from that transaction. Indeed it would be foolish to be involved in illegal selling whilst having a licensing application in process. However, Mr Serbet takes responsibility for those working at the premises and he took appropriate action.
 - h. Going forward, all the objections had been considered, and Mr Serbet was committed to complying with all the licence conditions. Ada Consulting had been instructed to provide a training programme and

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advice on supervision, maintaining registers, etc. Mr Serbet would be supported by Ada Consulting who also had Turkish speakers and could translate documents to ensure Mr Serbet understood what was expected of him. Concerns such as the display of posters had been addressed.

- i. Mr Serbet had invested a considerable amount of time in the business. He was the leaseholder and was responsible for paying the rent and bills. He employed three people at the premises. Mr Serbet was the Designated Premises Supervisor and had another trained employee, Hussain.
 - j. All efforts had been made since October in respect of compliance with the licence. Mr Serbet was committed and determined to ensure the business succeeded. The business would be operated within the law and Mr Serbet would meet the licensing objectives. He understood that the licence may be reviewed and revoked otherwise.
3. Mr Serbet and his representative responded to questions, including:
- a. In response to the Chair's queries, Mr Hussain clarified that his contact with Ada Consulting had taken place yesterday, but that the company had been instructed by Mr Serbet in October and they had been working together for three months. Mr Hussain had asked and received confirmation about the training provided by Ada Consulting to Mr Serbet.
 - b. In response to questions from Charlotte Palmer, Senior Licensing Enforcement Officer, Mr Serbet advised that he was present at the premises every morning, and that all the staff at the premises were new and had not been involved in the premises previously.
 - c. In response to further questions regarding Mr Serbet's takeover of the business, he confirmed that he had taken control of the business seven to eight months ago. When asked why the application had not been made earlier than October, and noting that there had been a breach of conditions for several months, Mr Serbet apologised but that those running the premises had run away and left behind bills and no stock. He had given the Police that information. He did not know what he had to do in respect of the licence. When asked specifically about the licence condition mentioning his name, Mr Serbet referred to the 2016 court case, and stated that he had not read the premises licence as he had too many bills to deal with.
 - d. In response to further queries as to how the licence could be complied with if Mr Serbet was not aware of its conditions, and how the Licensing Authority could have confidence in him as licence holder, Mr Hussain confirmed that Mr Serbet had to accept that he should not have been at the business, but he had been trying to explain the situation.
4. The statement of Charlotte Palmer, Senior Licensing Enforcement Officer, on behalf of the Licensing Authority, including:

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- a. Although this application was for a new premises licence, Mr Serbet had held the licence previously. That licence was revoked in April 2016 on grounds including that the premises had been found to be selling non-duty paid alcohol and tobacco and breaching other licence conditions.
 - b. Mr Serbet had connections to another licensed premises in Bush Hill Park, and in August 2018 was working there when seven packets of non-duty paid cigarettes were found on his person. These were advised to be for personal use, but this was a commercial premises where having those cigarettes would be a silly thing to do, particularly after having been taken to court previously. Mr Serbet appeared at best naïve.
 - c. In October 2018 during a further illicit tobacco check, three packets of non-duty paid cigarettes were found in a jacket in the store room and Mr Serbet was working at the premises at the time of the visit.
 - d. At a visit by Trading Standards officers on 3 December 2019 a test purchase, asking for 'cheap tobacco', was made and a packet of cigarettes which appeared to be non-duty paid was sold by a member of staff that was not Mr Serbet.
 - e. The issues in respect of businesses owned by Mr Serbet had led the Licensing Authority to lack confidence in him to hold a licence. The Licensing Authority therefore continued to object to this application in its entirety.
5. The summary statement by Ellie Green, Principal Licensing Officer, that having heard all the representations it was for the LSC to consider whether the application was appropriate and in support of the licensing objectives. The potential steps the sub committee may be minded to take were set out in the officers' covering report, along with relevant guidance and policy.
 6. The summary statement of Charlotte Palmer, Senior Licensing Enforcement Officer, that the repeated non-duty paid tobacco seizures had led to the Licensing Authority's lack of confidence in Mr Serbet to operate a licence and to object to this application.
 7. The summary statement of Mr Ali Hussain on behalf of the applicant that Mr Serbet's previous incidents could be summed up as silly and naïve. Action had now been taken to ensure compliance with the licence. Mr Serbet had learned his lesson. There had been meetings and discussions and he knew he could not fail in the business as his livelihood depended on it. The licensing conditions had been discussed at length with Mr Serbet and he did understand them.

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:

“We have listened and read and considered all of the evidence put before us and find we are not persuaded that Mr Serbet has the capability to run any business which involves licensed premises.

Mr Serbet previously ran a business at this site and lost that licence. The licence granted to the new business at that premises, included a condition that Mr Serbet could not be involved in it. When those licence holders left in the summer of 2019, Mr Serbet took over the business in specific breach of that licence condition. Mr Serbet said he didn't know this. The fact makes the Licensing Sub Committee (LSC) believe Mr Serbet is incapable of running any licensed business in accordance with its conditions.

Further, at another shop owned by Mr Serbet/his company, another staff illegally sold non-duty paid cigarettes. The LSC are persuaded that Mr Serbet lacks the ability even now after training to manage his staff to prevent from doing illegal activity on his premises.”

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

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**FRESH FOOD CENTRE, 220-222 HERTFORD ROAD, ENFIELD EN3 5BH
(REPORT NO. 188)**

RECEIVED the application made by KYK Trading Ltd for the premises situated at Fresh Food Centre, 220-222 Hertford Road, Enfield, EN3 5BH for a New Premises Licence.

NOTED

1. The introduction by Ellie Green, Principal Licensing Officer, including:
 - a. This was an application for a new premises licence, and the applicant was KYK Trading Ltd. The proposed Designated Premises Supervisor (DPS) was Mr Talip Kaynar, as per the existing premises licence. He was also a Director of the company.
 - b. Since 2009 a licence had been held at the premises. There had been no review applications for the existing licence.

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- c. This new application sought 24 hour opening and sale of alcohol 24 hours daily.
 - d. Current timings for opening and supply of alcohol were both 08:00 to 23:00 daily.
 - e. An objection to the hours sought had been made by the Licensing Authority and the Police due to the premises being in the Enfield Highway Cumulative Impact Policy (CIP) Area and seeking times in line with the CIP of 08:00 to 00:00 daily.
 - f. Authorities may seek additional conditions to the licence should it be minded to grant a full 24 hour licence.
 - g. The applicant had not given indication before the hearing in respect of additional conditions proposed by the responsible authorities whether the conditions were agreed.
 - h. There was an automatic presumption of refusal for applications outside the CIP core hours. It was for the applicant to set out what mitigation measures would be taken and why the application should be an exception to the CIP policy.
 - i. KYK Trading were represented at the hearing by two of the Directors, and by Mr David Dadds, Dadds LLP Solicitors.
 - j. PC Karen Staff gave apologies for absence at the hearing, but did not wish to add anything further to the written representation on behalf of the Police.
2. The statement of Mr Dadds, solicitor on behalf of the applicant, including:
- a. The applicant had not made any further written submissions as they expected to provide their responses at the hearing.
 - b. There were only two representations against the application, from the responsible authorities.
 - c. The business was described: it was a fairly big store/small supermarket operation which had undergone substantial investment to bring it up to a very high standard. A sum of £885,000 had been invested in the refit. 21 staff were employed at the premises. It stocked over 7,000 product lines. Alcohol sales were a component of the business but not a majority: the store plan showed alcohol taking up around 10 – 12% of the floor area, in one corner.
 - d. The application had been written with conditions that should rebut the presumption of refusal, as they provided more than adequate mitigation. If the licensing objectives were being promoted, the licence should be granted. In this case the conditions and the way the premises operated showed that the applicants believed they can promote the licensing objectives.
 - e. Two representations had been received from the responsible authorities. There were no representations from members of the public and no representations from local councillors. On a visit to the area he had spoken to a community warden who told him there were no issues in the immediate area in respect of street drinking or any particular crime issues over and above what could be seen in any town.

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- f. With reference to the Police report, if they were just looking at the CIP policy and objecting on that basis only, that would be unlawful and arbitrary. Guidance said that anyone making a representation should refer back to the information that put the policy in place, or the issues in the area. Enfield's CIP policy was five years old, and a lot may change over that time span. The onus would be on the Police to refer to any anti-social behaviour, nuisance or crime and disorder locally, with areas where problems were occurring identified with specific days, times, issues, etc. That there were special policies did not relieve the responsible authorities of the need to make such representations. Each application should still be considered individually in each case. There was no history of crime and disorder at this premises, and nothing of particular concern was raised in the Police written representation.
- g. A CIP would deal with a number of licensed premises in a given area where the concentration caused problems such as queueing for taxis and for late night food. There was no such cumulative effect in this vicinity.
- h. In respect of an off-licence, the only concerns could be street drinking and anti-social behaviour. It was understood there was a 24-hour shop around 300 metres away that would have been a good source of reference. It had been hoped to seek clarification from the Police at this hearing. As there was no Police representative in attendance, it may be assumed that there was no concerning crime and disorder in the area. The Police may have objected purely on the grounds of the CIP policy, but the reasoning was weak.
- i. In respect of hours, the aspiration for the business was to trade 24 hours, and the operators believed this could be done safely and in promotion of the licensing objectives. He would ask, if the panel were not minded to grant 24 hours, that they would look at giving later licensed hours until at least 02:00. Data was not available for nearby businesses, but the councillors may be able to use their local knowledge.
- j. He had asked Licensing Authority officers if there could be discussion around the times, but been told that the Council policy had to be upheld. This fed back to his argument that this was just a policy decision.
- k. In respect of the conditions requested by the Police, these were in principle acceptable except for 1) c. that cameras overlooking floor areas should be wide angled. The operators would argue that not all cameras should or needed to be wide angled; for example cameras covering the doorway. This premises had sophisticated CCTV with 56 cameras, which were all electronic and able to be viewed remotely. Otherwise, the Police's proposed conditions, with the exception of the change of hours, were all agreed.
- l. Similarly, in respect of the Licensing Authority representation, there was no information referring back to the data at the time of the CIP policy coming into force, five years ago. There was no evidence of anti-

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social behaviour, complaints, street drinking, noise, etc from Environmental Health.

- m. After midnight, this vicinity was very quiet: too quiet. There was no cumulative impact and no issues. It was not considered that there would be issues when the business was operating at night either. Even if licensable activities were not granted beyond 02:00 the shop would want to open 24 hours.
 - n. The arrival of the shop was well received by local residents, and there was demand for 24 hour opening. The shop would offer a range of products that the community wanted. The business wanted to be a part of the community, and did not want to undermine the licensing objectives.
 - o. In respect of the conditions requested by the Licensing Authority, he suggested the amendment from 'regularly' to 'monthly' checking of the refusals system to ensure it is being consistently used by all staff. This amended wording would be more specific, and enforceable, and had been agreed with the Licensing Authority.
 - p. He had not been given the opportunity to look at any other conditions should the panel be minded to grant later hours.
3. The applicant and representative responded to questions, including:
- a. Councillor Alexandrou questioned known demand if the vicinity was quiet at night, and the likely volume of alcohol sales. It was advised that the shop had only been open for three weeks, and that alcohol had been around 8% of sales. Rather than an off-licence, this was a supermarket, with high sales of food, and a bakery, for which there would still be a demand. The business wanted to establish and to improve. This was a commercial decision to open 24 hours. There was no cumulative impact effect and no reason the shop should be stopped from opening. The Legal Services representative confirmed that the panel did not have to consider the commercial demand for the business.
 - b. In response to the Chair's queries regarding investigations made locally, it was confirmed that data had been sought for crime and disorder within a 200 metre radius and that the surrounding area had been walked, looking out for evidence of street drinking or other issues. This visit was confirmed as being during the daytime 11:30 to 13:30. There were no specific issues raised by the Police, or relevant evidence.
4. The statement of Charlotte Palmer, Senior Licensing Enforcement Officer, on behalf of the Licensing Authority, including:
- a. The objection was on grounds of prevention of crime and disorder. This application was for a large convenience store for 24 hour opening, on Hertford Road, but there were residential properties above and in nearby side streets.

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- b. This morning, the applicant had agreed to all conditions suggested by the Licensing Authority with one slight amendment: to replace the word 'regularly' with 'monthly', which was agreed.
 - c. Had there been communication from the applicant before today, the Licensing Authority and the Police would have been able to provide more information in respect of the representations.
 - d. The premises was already licensed to 23:00. The licence was transferred on 5/11/19, and Mr Kaynar had been the Designated Premises Supervisor since 6/1/20. The Licensing Authority therefore had little time to judge if there was compliance with the licence or any nuisance. There had previously been concern in respect of crime and disorder and nuisance in this area.
 - e. As the premises was in the CIP area there was a presumption that applications outside the CIP core hours would be refused. The onus fell on the applicant to show there would be no negative impact on the area. It was not for residents or councillors to say why the panel should go against policy.
 - f. At the time of the application, no additional information had been provided in respect of the CIP and the applicant had still not stated what steps would be taken over and above the conditions on the current licence in respect of why the CIP policy should not apply.
 - g. The Licensing Authority believed that the applicant had failed to demonstrate why the CIP policy should not apply in this case. They had suggested that the area was too quiet at night: maybe that was because the CIP was doing what it was designed to do.
 - h. Updated statistics for the CIP were published online in December and would be coming into force this week. The data suggested that the CIP was still needed in the area and should apply.
 - i. The Licensing Authority recommended that times were limited for the sale of alcohol in line with the core CIP hours.
5. In response to the Chair's query, it was confirmed that there were now few late night licensed premises in the area.
6. The summary statement by Ellie Green, Principal Licensing Officer, that having heard all the representations it was for the Licensing Sub Committee to consider whether the application was appropriate and in support of the licensing objectives. The potential steps the sub committee may be minded to take were set out in the officers' covering report, along with relevant guidance.
7. The summary statement of Charlotte Palmer, Senior Licensing Enforcement Officer, that the Licensing Authority saw no reason why the CIP should not apply to this application, and recommended that a licence be granted to 00:00 only.
8. The summary statement of Mr Dadds, solicitor on behalf of the applicant, highlighting statutory guidance and that every application should be

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determined on its own merits. There had not been more discussion in advance of the hearing as it was known that negotiation was limited as this was a policy decision by officers. A CIP should manage the issues within an area, not shut it down. There did not appear to be a large night time economy here. If there was new crime data, this could have been served as a representation. The application with conditions submitted would promote the licensing objectives, and was a good addition to the community.

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:

“The LSC have considered the evidence before them today.

We accept that evidence to support why the CIP should apply in these circumstances is not strong. Therefore we are granting this for the hours requested but with the varied wording of the conditions agreed here today at the hearing.”

3. The Licensing Sub-Committee resolved that the application be granted in full as follows:

Opening hours: 24 hours daily

Supply of alcohol (off sales): 24 hours daily

Conditions (in accordance with Annex 5 of the LSC report):

Conditions 1 to 12, amended as agreed: to remove Condition 2(c) and to amend Condition 8 that the Designated Premises Supervisor shall ‘monthly’ check the refusals system.

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MINUTES OF PREVIOUS MEETING

AGREED the minutes of the meeting held on Wednesday 18 December 2019 as a correct record.

