

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
19 December 2012 (10.30am - 11.25am)**

Present:

COUNCILLORS

Conservative Group Peter Gardner (Chairman) and Melvin Wallace

Labour Group Denis Breading

Present at the hearing were: Mr M Kaya (Applicant) and Mr G Harrington (Agent for the applicant)

Objectors: Mr P Jones (Havering Licensing Service), Mr M Gasson (Public Health) & PC D Fern (Metropolitan Police) as well as Mr C Garn (interested party)

Also present were Paul Campbell (Havering Licensing Officer), the Legal Advisor to the Sub-Committee and the clerk.

The Chairman advised those present of action to be taken in the event of emergency and the evacuation of the Town Hall becoming necessary.

There were no declarations of pecuniary interest by Members.

**1 APPLICATION FOR A PREMISES LICENCE FOR TURKISH MANGAL,
160 BALGORES LANE**

PREMISES

Turkish Mangal
160 Balgores Lane
Gidea Park
RM2 6BS

DETAILS OF APPLICATION

An application for a premises licence under section 17 of the Licensing Act 2003 ("the Act").

APPLICANTS

Mr Mesut Kaya
35, Walton House
Montclare Street
London
E2 7ET

1. Details of the application:

Late Night Refreshment – Indoors – Take-Away only after midnight		
Day	Start	Finish
Sunday to Wednesday	23:00hrs	00:00hrs
Thursday to Saturday	23:00hrs	02:30hrs

Supply of Alcohol – On the premises only		
Day	Start	Finish
Monday to Sunday	12:00hrs	23:30hrs

At the start of the hearing, the applicant withdrew the application for the sale of alcohol and made the following changes to his application for late-night refreshment facilities:

Late Night Refreshment – Indoors – Take-Away only after midnight		
Day	Start	Finish
Sunday to Thursday	23:00hrs	01:00hrs
Friday and Saturday	23:00hrs	02:00hrs

There have been three Temporary Event Notices (TENs) for this premises. All three applications were made on 1 November 2012 by GT Licensing Consultants for Mr Mesut Kaya.

The first was a Late TEN to permit Late Night Refreshment on Friday 9 and Saturday 11 November 2012 for up to 50 people from 23.00hrs to 02.00hrs the next day.

The second was a TEN to permit Late Night Refreshment on Friday 16 and Saturday 17 November 2012 for up to 50 people from 23.00hrs to 02.00hrs the next day.

The third was a TEN to permit Late Night Refreshment on Friday 23 and Saturday 24 November 2012 for up to 50 people from 23.00hrs to 02.00hrs the next day.

2. Seasonal variations and non-standard timings

There are no seasonal variations or non-standard timings applied for in the application.

3. Comments and observations on the application:

The applicant acted in accordance with premises licence regulations 25 and 26 relating to the advertising of the application. The required newspaper advertisement was installed in the Yellow Advertiser on Wednesday 14 November 2012.

4: Summary:

There were seven valid representations against this application from interested parties.

There were four representations against this application from responsible authorities.

5. Representations:

Representation from the interested parties

The interested parties' representations fall mainly under the heading of Public Safety and the Prevention of Public Nuisance.

Representation from the responsible authority

The four responsible authorities' representations outline a number of points they wish the Sub-Committee to consider.

There were no representations from the following responsible authorities:

The London Fire and Emergency Planning Authority

The Health & Safety Enforcing Authority

The Trading Standards Service

Children & Families Service

Health Service

6. Determination of Application

Decision:

Consequent upon the hearing held on 19 December 2012, the Sub-Committee's decision regarding the application for a Premises Licence for Turkish Mangal is as set out below, for the reasons shown:

The Sub-Committee was obliged to determine this application with a view to promoting the licensing objectives, which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

In making its decision, the Sub-Committee also had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Havering's Licensing Policy.

In addition, the Sub-Committee took account of its obligations under s17 of the Crime and Disorder Act 1998, and Articles 1 and 8 of the First Protocol of the Human Rights Act 1998.

Agreed Facts
Facts/Issues

Whether the granting of the premises licence would undermine the licensing objectives.

The prevention of public nuisance and The prevention of crime and disorder

- The Council's Noise Specialist on behalf of Public Protection stated that there were objections based on the close proximity of properties both above and opposite the premises. He asked the Sub-Committee to consider placing restrictions on the length of time the premises was open for late night refreshment should it be minded to grant the application.
- The Licensing Officer said that even though the applicant had amended the application to remove the request to sell alcohol, there remained objections to the hours requested. He referred to the location and reiterated what the Council's Noise Specialist had said about the mixed nature of the immediate community and added that the additional hours would not only add to nuisance for those living near-by but was likely to prove attractive to those who were returning home late and, possibly affected by alcohol consumption, were looking for food outlets rather than disperse quickly to their homes. This could have a negative impact on the locality.

He further stated that the applicant appeared to be relying principally on signage to manage the behaviour of patrons and he considered that this might not be as effective as it appeared. In addition he reminded the Sub-Committee that Havering's Licensing Policy (012) stated that an application for a licence outside those defined in the policy would be considered on their merits, however, regulated activities would normally be permitted until 23.30 hours in residential areas and until 00.30 hours in mixed use areas. He informed the Sub-Committee that in this instance, the Licensing Service deemed the area to be a mixed use one.

He concluded by drawing the Sub-Committee's attention to the fact that the applicant had recently been prosecuted for repeated failure to cease the provision of late night refreshment despite several warnings. Mr Kaya had admitted the offences and the Licensing Service was pleased to see that he was seeking a proper licence. The Service remained,

however, sceptical about his intention to fully implement the requirements of the Act.

- PC Fern sought clarification about whether the late night refreshment application was eat in, take-away or a mix and being informed by the Applicant's solicitor that it would be simply be for a take-away service, he informed the Sub-Committee that the police, whilst welcoming the applicant's decision not to ask for the sale of alcohol, still had reservations concerning the impact the premises would have on the local community should it be granted the times requested.
- A resident, Mr Garn, stated that whilst he too welcomed the removal of the request to sell alcohol, he – and other neighbouring residents – remained concerned about the additional late night disturbance they were likely to experience (car doors slamming, loud voices from people under the influence of alcohol) along with a possible increase in litter as people leaving the premises and having consumed their purchases, discarded the packaging on their way out of the area. He considered that even the amended times were still too late for neighbouring residential properties.
- Mr Harrington, on behalf of the applicant, stated that a similar property traded at 81 Balgores Lane and his client was only requesting parity with this venue. He reminded the Sub-Committee that the premises was located in a parade of shops which had residential accommodation above them and that all the objections from residents were made from those living away from his client's premises, There had been no objection from either those people living in the properties above the shops or those living opposite.

He concluded by saying that the issue remaining was simply the terminal hour. He and his client considered the amended times to be wholly reasonable and that the impact on the area would be minimal, but would provide it with an alternative outlet late at night from which to choose.

- PC Fern asked how the applicant proposed to manage the premises after it had made the transition from eat-in to take-away only as chairs and tables would encourage customers to sit and eat in. He was still not convinced about there being minimal impact on the community as the extractor fans would be

running a lot longer and that could constitute a nuisance.

- The applicant's representative assured the Sub-Committee that his client would remove all external tables and chairs and within the premises itself would clear and stack tables and chairs and place a barrier across the room to ensure there could be no mistake that further purchases were counter sales only for consumption off the premises.
- The Chairman asked whether the CCTV provision referred to in Section M of the Operating Schedule would remain even though permission to sell alcohol had been withdrawn. The Applicant confirmed that CCTV would still be in place for the protection of customers and staff.
- PC Fern asked the Sub-Committee to consider attaching the first three conditions proposed by the Police in their written representation to the licence if granted (referring to the removal and stacking of tables and chairs and that the premises would operate as a take-away service only from 23:00), the other suggested conditions being made irrelevant by the withdrawal of the application for an alcohol licence.
- Also raised was the fact that the advertisement had stated that from Sunday to Wednesday a terminal hour of midnight was requested and the amended application sought a further hour on those days and extended the period to Thursday. Mr Harrington submitted that overall, the application as advertised was for much more than the amended version, and that the application had had adequate publicity for any potential objectors to make representation.

The Sub-Committee stated that in arriving at this decision, it took into account the licensing objectives as contained in the Licensing Act 2003, the Licensing Guidelines as well as Havering Council's Licensing Policy.

The Sub-Committee accepted that the amended application presented to it that morning had removed the request to sell alcohol and was for late-night refreshment only. The objectors present maintained their objections on the basis of crime and disorder and public nuisance. Reference had also been made to Havering's Licensing Policy 012 which stated that 00.30 hours was an appropriate time for the cessation of licensable activities in a

primarily mixed use area. The Policy suggested that anything later than that would be taken on the merits of the individual case.

This being the position, the Sub-Committee had taken into account the legitimate concerns of the objectors, the apparent lack of trouble currently associated with the premises, but also the history of non-compliance with the applicant's hours of operation.

After due consideration of all issues the Sub-Committee was prepared to issue a late-night refreshment licence for the following hours:

Late Night Refreshment – Indoors – Take-Away only after midnight		
Day	Start	Finish
Sunday to Thursday	23:00hrs	00:00hrs
Friday and Saturday	23:00hrs	01:00hrs

The Chairman noted that the Sub-Committee was not completely satisfied that the number of objections might not have been greater had a closing time of 1.00am Sunday to Wednesday been recorded in the advertisement. He added that given previous issues of non-compliance with permitted hours of operation the Sub-Committee expected that Mr Kaya would adhere strictly to the hours specified on the licence as granted.

In addition, the Sub-Committee was adding to the licence the three conditions requested by the Police and noted that all references to the sale of alcohol stated in the applicant's operating schedule was to be removed from it.

Chairman