

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
20 March 2013 (2.30 - 3.20 pm)**

Present:

COUNCILLORS

Conservative Group Peter Gardner (Chairman), Wendy Brice-Thompson and Melvin Wallace

Present at the meeting were Mr Irshadur Rahman the applicant, Mrs Linda Hopkins and Mr Graham Hopkins applicant's agent. Mr Gasson, the Havering Noise Specialist officer, the LB Havering Licensing officer, Mr Paul Jones, the legal advisor and the clerk to the Sub-Committee were also in attendance.

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

Details of Application

Akash Tandoori is an Indian restaurant in the centre of Hornchurch. The vicinity is a mixture of residential and commercial properties.

The applicant submitted applications for three Temporary Event Notices (TENs) on 7 March 2013 in accordance with the provisions of section 100 of the Licensing Act 2003 ("the Act").

TEN requirements:

TEN 1

Supply of alcohol; provision of regulated entertainment; late night refreshment		
Day	Start	Finish
Sat 23 March 2013	00:30	02:00
Sun 24 th March 2013	00:30	02:00 & 23:00 00:00

TEN 2

Supply of alcohol; provision of regulated entertainment; late night refreshment		
Day	Start	Finish
Sat 30 March 2013	00:30	02:00
Sun 31 March 2013	00:30	02:00
Mon 1 April 2013	00:30 23:00	02:00 & 00:00

TEN 3

Supply of alcohol; provision of regulated entertainment; late night refreshment		
Day	Start	Finish
Sat 6 April 2013	00:30	02:00
Sun 7 April 2013	00:30 23:00	02:00 & 00:00

The Licensing Officer provided the subcommittee a further update to his report relating to the premises which in his view required consideration in order that the Licensing Sub-Committee was made fully aware of the circumstances surrounding these TENs.

He detailed that the premises licence holder of the Akash Tandoori premises licence and the premises user for these TENs, recently submitted a premises licence variation application. This application was opposed by three responsible authorities, including Mr Marc Gasson, Havering's Noise Specialist. The application was partially granted on 7 February 2013 at a hearing. The premises' hours and permitted licensable activities were extended to those indicated in the premises licence, a copy of which was included in the agenda. Effectively, licensable activity at the premises must cease at 00:30 on Friday and Saturday nights while the premises must be closed to the public at 01:00.

That on the evening of Saturday 16 March 2013, into Sunday 17 March 2013, he witnessed two tables of diners still in the premises at 01:45. Additionally, at this time two further customers arrived at the premises and were admitted, whereupon it appeared that they were both served alcohol while awaiting a table meal.

Grounds of Objection

There was one objection notice made against each of these TENs from a responsible authority, namely Havering's Noise Specialist, Mr Marc Gasson on 12 March 2013.

Mr Gasson submitted an objection notice on behalf of Havering's Environmental Health Service based upon his concerns in relation to the prevention of public nuisance licensing objective.

Mr Gasson's objection notice outlined his concerns in relation to the potential for noise disturbance to nearby residents. Mr Gasson's objection notice also draws

attention to Havering's Licensing Policy 12 with regard to the hours during which regulated activities would normally be permitted at licensed premises in the borough.

Details of Representations

Public Health: - Mr Gasson, the Havering Noise Specialist officer appeared and reiterated his written objection against the applications. He stated that:

- The close proximity of residential properties to the premises in question would mean that should the TENs be granted, it would increase the potential of noise disturbance being experienced by nearby residents later at night and into the early hours of the morning both from noise emanating from regulated entertainment within the premises and also as patrons enter/leave the premises.
- Any extension beyond the current hours for regulated entertainment would conflict with the council's licensing policy 12 for mixed commercial/residential use areas.
- The subcommittee was also informed that the service had been made aware of two complaints of noise disturbance raised in November and 19 December 2012.
- The subcommittee was informed that there was documentary recording of these complaints.
- The cases continue to be monitored by the Council's Out-Of-Hours Noise Service.

Applicant's response.

The applicant was represented by Mr G Hopkins. He responded to the points made by Mr Gasson.

He stated that his client's premises were located in a parade of shops with four other restaurants, and it was a competitive environment.

Mr Hopkins stated that the only issue before the subcommittee related to concern of potential noise which in his view cannot be attributed to the premises. He stressed that there has been no direct issue of nuisance against the premises, and that there had been no evidence of any actual noise issues concerning this premises.

Mr Hopkins added that the noise complaint referred to was recorded as from anonymous callers. In his view, he requested that subcommittee to disregard these issues as neither he nor his client had been notified of, or provided any details of the two incidents mentioned by Mr Gasson, or of any noise issues at all, either from residents directly, or the Noise Service.

He informed the Committee that the premises would continue to have one staff member at the door before closure directing customers to the Taxi cab office.

Mr Hopkins also advised that the application in terms of regulated entertainment had been withdrawn, further removing any concern over potential noise issues.

Determination of Application

Consequent upon the hearing held on 20 March 2013, the Sub-Committee's decision regarding the applications for three Temporary Event Notices for Akash Tandoori is as set out below, for the reasons stated:

The Sub-Committee was obliged to determine these applications with a view to promoting the licensing objectives.

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 section 117 of the Crime and Disorder Act 1998, and Articles 1 and 8 of the First Protocol of the Human Rights Act 1998.

Agreed Facts Whether the granting of the Temporary Event Notices would undermine any of the four licensing objectives.

- **Prevention of Public Nuisance**

That Noise Specialist Marc Gasson had raised an objection on the grounds of the potential of noise disturbance being experienced by nearby residents later at night and into the early hours of the morning both from noise emanating from regulated entertainment within the premises and also as patrons enter/leave the premises.

The subcommittee was of the view that there was no evidence of noise complaint linked to the premises.

The subcommittee was minded to attribute minimal weight to the issue of the two complaints that were referred to at the hearing as this matter had not been put to the applicant and evidence had not been brought before the subcommittee.

Decision

Having considered the oral and written submissions of the Noise Specialist in relation to the three applications, the Committee decided to **grant** the applications for the following reasons:

- Having regards to the light touch placed on TENs application and that the reason for this hearing was related to potential noise nuisance, yet there was scant evidence of any noise nuisance attributable to this premises before the Sub-Committee.
- The Sub-Committee was of the opinion that there was insufficient detail of the on-going complaints, or the number of complaints (or complainants), and they were not satisfied that granting the applications would undermine the licensing objective of prevention of public nuisance.
- The Sub-Committee also noted that the applicant had withdrawn the application for regulated entertainment that was put to the Noise Specialist.

Chairman