

**MINUTES OF A MEETING OF THE  
LICENSING SUB-COMMITTEE  
Council Chamber - Town Hall  
3 September 2013 (10.30 - 10.45 am)**

**Present:**

**COUNCILLORS**

**Conservative Group**            Peter Gardner (Chairman) and Frederick Thompson

**Labour Group**                 Denis Breading

There were no declarations of pecuniary interest.

The Chairman reminded Members of the action to be taken in an emergency.

Present at the meeting were Mr Ochan Top, the Applicant. Mr D Tuitt of the ADA Group representing the Applicant. Mr P Slade, the Applicant's landlord and Mr A Hunt Licensing Officer.

Also present were the Legal Advisor and the Clerk to the Sub-Committee

**APPLICATION FOR A PREMISES LICENCE UNDER S.17 OF THE LICENSING ACT 2003 FOR THE KERVANSARAY RESTAURANT, 160 BALGORES LANE, GIDEA PARK RM2 6BS**

**PREMISES**

Kervansary Restaurant  
160 Balgores Lane  
Gidea Park  
RM2 6BSS

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

**APPLICANT**

Mr Orhan Top  
26 Nightingale Road  
London  
N9 8AL

This was an application for a new premises licence. Previously there had been a premises licence in place at the establishment under the name of "Turkish Mangal". This had operated as a takeaway with the licence covering late night refreshment on Sunday to Thursday – 23:00 to 00:00 and Friday & Saturday – 23:00 to 01:00

**1. Details of the application:**

<b>Supply of Alcohol – On the premises only</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	11:00hrs	23:00hrs

<b>Opening Hours</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	09:00hrs	23:30hrs

There had already been four Temporary Event Notices (TENs) for these premises. Three applications were made on 25 July 2013 by licensing consultants, Ada Group, on behalf of Mr Top.

The first was a Late TEN to permit the supply of alcohol on the 7 August until 11 August from 12.00hrs to 23.00hrs for 60 people.

The second was a TEN to permit the supply of alcohol on the 13 August until 18 August from 12.00hrs to 23.00hrs for 60 people.

The third was a TEN to permit the supply of alcohol on the 20 August until 25 August from 12.00hrs to 23.00hrs for 60 people.

The fourth was a TEN to permit the supply of alcohol on the 29 August until 2 September from 12.00hrs to 23.00hrs for 60 people.

**2. Seasonal variations & Non-standard timings**

There were no seasonal variations or non-standard timings applied for in this 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 Romford Recorder on 19 July 2013.

**4. Summary**

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

There were no representations against this application from responsible authorities.

## **5. Details of representations**

Valid representations may only address the following licensing objectives:

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

### **Interested Parties' representations**

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

## **6. Representations**

Neither of the interested parties attended the hearing and the Licensing Officer confirmed that the Service was not raising any objection to the application which was for a new premises licence permitting the establishment to trade as a restaurant. He informed the Sub-Committee that subsequent to the application, negotiations with the ADA Group in respect of conditions to be applied to the Operating Schedule, led to the Group accepting six proposals made by the Police which were:

1. The premises shall be operated as a restaurant
2. Alcohol shall be sold ancillary to table meals with all service by waiting staff
3. Persons taking a table meal shall be permitted to purchase alcohol before, during and after the meal
4. Alcohol shall not be supplied to persons collecting take-away meals
5. All staff shall be trained for their role including the operation of Challenge 25 on induction and at six-monthly intervals. Training shall include identifying persons under 25 years of age, making a challenge, acceptable proof of age and checking it, making and recording a refusal, avoiding conflict and responsible alcohol retailing. Written records shall be kept of all such training.
6. A proof of age scheme such as Challenge 25 shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification card such as a driving licence or passport.

The Applicant's Agent informed the Sub-Committee that this was a new venture. The premises had been thoroughly refurbished to a high standard. The premises was located in an area of mixed use (there being other food outlets near-by, a rail station and a mini-cab firm as well as residential properties).

He observed that the two objections had referred to the premises contributing to the irresponsible consumption of alcohol – an argument which he dismissed as the conditions seriously curtailed the consumption of alcohol and there was an off-licence close to his client's premises.

He argued that the element concerning nuisance appeared to be focused around the rear of the premises where there was a yard which backed onto residential homes. He drew the Sub-Committee's attention to the fact that this was a shared area and that his client had two Euro-bins as well as recycling facilities. He stated that he had observed members of staff outside the premises smoking and stated that this practice should cease. He also stated that the yard formed the emergency exit from the kitchens and he assured the Sub-Committee activity outside would cease at 10.00pm other than any necessary emergency use.

He concluded by stating that during the refurbishment, his client had replaced an existing flue in order to ensure smells were controlled or eliminated, environmental health issues addressed and neighbouring properties not inconvenienced.

He accepted, on behalf of his client, the Police conditions and added – in response to a question - that the premises had been open for the past five weeks, selling alcohol under the four TENs. There had been no reports of disturbance.

Members of the Sub-Committee enquired about the extent of the take-away element of the business and were assured by the Applicant's Agent that it was a minor provision. Telephoned orders would be accepted but no alcohol could be purchased for taking off the premises, nor would those patrons waiting for take-away meals to be prepared be permitted to purchase alcohol.

The Sub-Committee asked the Applicant whether any thought had been given to the disposal of bottles as that could be a source of noise nuisance. The Applicant's representative assured the Sub-Committee that his client would give this serious consideration.

## **7. Determination of Application**

### **Decision:**

**Consequent upon the hearing held on 3 September 2013, the Sub-Committee's decision regarding the application for a Premises Licence for the Kervansary Restaurant 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 a premises licence would undermine the licensing objectives.

#### **The prevention of public nuisance and public safety**

The written objections suggested that noise nuisance was likely at the rear of the premises by staff and at the front by customers. The granting of an alcohol licence was only likely to prolong late night noise and nuisance.

The other interested party contended that the opening of the café had badly affected the quality of life for those living near-by. It suggested that the granting of an alcohol licence would encourage drink-driving from both customers and those working in the local mini-cab firm as well as the possibility of increasing under-age drinking. This too referred to noise nuisance from staff at the rear of the premises as well as customers at the front. In addition, the objection made reference to the likely negative impact on the environmental health of the surrounding area due to an increase in litter and a consequential rise in vermin.

The Applicant's representative acknowledged that staff did use the rear yard, but that in future this would be stopped at 10.00pm. He noted that there were five other businesses in that parade and his client would do all he could to minimise any negative impact on his neighbours

With regard to the sale of alcohol, it was restricted to table sale only and only with a meal. There was no take-away facility. With regard to late night noise, his client was actually closing earlier than some of his neighbours and he had not sought to continue with the late night refreshment licence employed by the previous business. His client had taken steps to ensure that his business would be an asset to the locality and would continue to ensure that all measures possible (including the addition of conditions from the Police) would be taken to reassure neighbouring residents.

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

After careful consideration of all issues the Sub-Committee was prepared to grant a premises licence as requested:

<b>Supply of Alcohol – On the premises only</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	11:00hrs	23:00hrs

<b>Opening Hours</b>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>
Monday to Sunday	09:00hrs	23:30hrs

The Chairman stated that having taken the comments of the Applicant into consideration, the fact that there were other premises operating later in the vicinity, and given the additional conditions meaning alcohol sales were ancillary to a table meal, the Sub-Committee was of the opinion that the application should be granted including the conditions proposed by the Police and accepted by the Applicant.

---

**Chairman**