

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
25 February 2014 (10.30 am - 1.45 pm)**

Present:

COUNCILLORS

Conservative Group Peter Gardner (Chairman), Pam Light and Georgina Galpin

Present at the hearing was the Designated Premises Supervisor Mr Nazim Eren. He was assisted by an interpreter provided by the Council.

The applicant for the review was represented by Keith Bush and Sasha Taylor. The responsible authorities were represented by Artur Hunt, Licensing, and PC's Jason Rose and Lee Davies (Metropolitan Police).

Also present was Lynne Locke (Licensing), the Legal Advisor to the Sub-Committee and the Clerk to the Sub-Committee.

The Chairman reminded Members and all those present of the action to be taken in an emergency evacuation of the Town Hall becoming necessary.

1 REVIEW OF PREMISES LICENCE - LONDON FOOD CENTRE, 271 LONDON ROAD, ROMFORD

PREMISES

London Food Centre,
271 London Road,
Romford
RM7 9NY

DETAILS OF APPLICATION

Application for a review of the premises licence by the London Borough of Havering's Licensing Authority under section 51 of the Licensing Act 2003 ("the Act").

APPLICANT

Robin Ball,
Trading Standards Manager,
London Borough of Havering,
5th Floor, Mercury House,
Mercury Gardens,
Romford, Essex.
RM1 3SL

1. Details of existing licensable activities

Recorded Music, Supply of Alcohol		
Day	From	To
Monday to Saturday	08.00	23.00
Sunday	08.00	22.30

2. Grounds for Review

The application for a review of the Premises Licence had been served under section 51 of the Licensing Act 2003 under the grounds of the prevention of crime and disorder and the protection of children from harm. The application for review stated that the London Food Centre had sold alcohol to underage volunteers on two separate occasions in just over two months, the latest sale occurring on 31 October, 2013.

Requirements upon the Licensing Authority

The application was received on 8 January, 2014 and the application was advertised on the council's website and on the notice board in front of the Town Hall. Notice was also posted at the premises, although this had to be re-positioned on a number of occasions. The public notice invited interested persons and responsible authorities to make representations against, or in support of, the application.

When determining an application for a premises licence review made after an application under s.51 the relevant Licensing Authority is required to hold a hearing to consider review application.

During the hearing the Licensing Authority must take any of the following steps it considers necessary to promote the licensing objectives These steps are:

- (a) to modify the conditions of the premises licence
- (b) to exclude a licensable activity from the scope of the licence
- (c) *to remove the designated premises supervisor from the licence **
- (d) to suspend the licence for a period not exceeding three months
- (e) to revoke the licence

Where the Licensing Authority takes a step as defined by (a) or (b) above it may provide that the modification or exclusion is to have effect for a specified period not exceeding three months

3. Promotion of the Licensing Objectives

The review had been requested in order to promote the licensing objectives as shown below

- **The prevention of crime and disorder**
- **The protection of children from harm.**

4. Details of Representations

The following Responsible Authorities submitted no representation:

London Fire & Emergency Planning Authority (“LFEPA”) – None

Health & Safety Enforcing Authority - None

Planning Control & Enforcement – None

Children and Family Services– None

The Magistrates Court – None

Representation from Interested Party – None

Representations were received from the Trading Standards, Metropolitan Police and Havering’s Licensing Authority:

Trading Standards

Robin Ball, Trading Standards Manager, stated that the grounds for review were that the Council was committed to preventing underage sales of alcohol within the borough. The London Food Centre had sold alcohol to underage volunteers on two separate occasions in just two months, the latest date being 31 October, 2013. He believed that two failures within such a short period of time demonstrated that the premises had failed in its duty to protect children from harm.

Robin advised that on 28 May, 2012 Trading Standards received a complaint that the London Food centre was selling alcohol to underage persons. As a result the premises were visited on 15 September as part of a test purchase exercise. Two volunteers had been used, aged 15 and 16, one male and one female. The premises were visited at approximately 4.50pm. The volunteers were challenged for ID and no sale was made.

On 30 August, 2013 at approximately 3.15pm a 16 year old female volunteer entered the premises and was able to purchase one bottle of Rose Echo Falls Wine (12%vol). The sale was made by Beyhan Eren. He did not challenge the volunteer as to her age or request identification. He claimed to be the nephew of the DPS and was not a personal licence holder. He was issued with a fixed penalty notice for the offence.

The DPS was not present at the time of the sale and no refusal book could be found.

Following the failure a meeting was held with the DPS, Nazim Eren and his son Serhat Eren. This meeting was held in the Town Hall on 24 October, 2013 and the following responsible authorities were present: Arthur Hunt from Licensing, PC Rose from the Metropolitan Police, Alice Peatling from Children's Services and Sasha Taylor and Robin Ball from Trading Standards. A Turkish translator was also provided to assist Nazim Eren whose English was not very strong.

It was explained at the meeting that underage sales of alcohol were taken very seriously by the council and the DPS was asked what systems were in place to prevent underage sales. A refusal log was produced by the DPS who claimed that it had been on site at the time of the test purchase failure. It was noted that Serhat Eren had filled out entries in the log and it was established that Serhat was only 17 years old. It was made clear that at 17 he was too young to make unsupervised sales of alcohol.

Serhat then claimed to only stack shelves and that sometimes he would fill out the refusal log on behalf of colleagues. PC Rose challenged this position, asking that if we checked the CCTV footage at the venue would we see Serhat working behind the counter. Both Nazim and Serhat were confident that Serhat did not work behind the counter.

The purpose and operation of challenge 21 were clearly explained to both men and concerns were raised that we did not believe that adequate training was being given to all staff at the venue.

It was explained that further visits would take place and that amendments to the licence alone were not sufficient. The venue needed to actively operate the recommendations proposed.

It was suggested that challenge 21 should become a condition on the licence, that extra training should be undertaken by all staff, and that training should be provided by an outside company. It was further suggested that there should be a condition requiring a refusal log to be maintained and kept on the premises. It was also made clear that only the person refusing the sale should fill out the book.

On 31 October, 2013 the premises were revisited at approximately 16.30 pm with two volunteers, one male and one female, both aged 16. On this occasion the volunteers were sold a bottle of WKD Wicked, with an alcohol content of 4%. The volunteers were not challenged as to their age nor asked for identification. The sale was made by Serhat Eren, a 17 year old male. He was alone on the shop floor at the time of the sale although another member of staff, Bayahan Eren was on the premises at the time.

The DPS was not present at the time of the sale, but was contactable and returned to the premises when requested. A refusal log was produced with the last entry being 16 October, 2013.

The trading standards service was concerned that on two occasions within a short period the premises had demonstrated an inability to prevent underage sales. Under section 147A of the Licensing Act 2003 this was classed as persistently selling alcohol to children. Trading Standards were particularly concerned that a further failure should occur so soon after a meeting intended to help the business come to compliance and that the most recent sale was made by an unsupervised minor.

Trading Standards had lost confidence in the management of this venue and believed that the failures were sufficiently serious that revocation of the licence should be considered.

If the committee did not feel that revocation was appropriate they would wish to see robust conditions imposed.

If conditions were attached to the licence Trading Standards were suggesting:

- Removal of the DPS
- Introduction of Challenge 25
- Retention of Refusal Log on premises and training in its use
- Training for all staff by an external agency
- Only DPS allowed to serve alcohol
- Introduction of adequate signage
- Use of electronic prompts on till.

The Chief Officer of the Metropolitan Police

PC Lee Davies made representation on behalf of the Metropolitan Police. PC Davies's representation repeated most of what was included in the representation submitted by Trading Standards. In addition he referred to the proximity of the venue to St Edwards Secondary and Sixth Form School and his concerns that pupils in the sixth form did not need to wear school uniform.

At the meeting on 24 October an action plan for the venue was made available. This required:

- Mr Eren and all staff members to be retrained by an outside agency,
- Mr Eren and all staff members to read and understand the licence,
- To implement challenge 21, and
- Above all else it was made clear that Trading Standards would be conducting further test purchase visits to the premises to ensure compliance.

Police were in attendance on 31 October. When Nazim Eren arrived at the premises he was asked for a copy of the CCTV footage. He advised that no one at the premises could use the system to download it. He was asked to produce a copy of the full licence but all he could produce was part B which was on display.

PC Davies referred to two additional incidents neither of which related to underage sales

The Police wholeheartedly supported the trading standards request to revoke the licence as they believed adding further conditions for this particular premise would be insufficient.

Should the Sub-Committee decide revocation was not the correct course of action the police had made the following suggestions, in addition to those made by Trading Standards.

- A suspension of the licence for a period of time so the venue could improve procedures addressing their failings with underage sales.
- A properly specified and fully operational CCTV system should be installed or the existing system maintained to a satisfactory standard. The system should incorporate a camera covering each of the entrance doors and be capable of providing an image which was regarded as 'identification standard' of all persons entering and/or leaving the premises. All other areas of risk identified in the operational requirement should have coverage appropriate to the risk.
- The CCTV system should incorporate a recording facility and all recordings should be securely stored for a minimum of one calendar month. A system should be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system should comply with other essential legislation and all signs as required should be clearly displayed. The system should be maintained and fully operational throughout the hours that the premise was open.
- A staff member from the premises who can operate the CCTV system should be on the premises at all times the premises were open to the public. This staff member should be able to show Police recent data or footage with the absolute minimum of delay when requested.
- Recordings should be made available to an authorised person of the Licensing Authority or Havering Police together with facilities for viewing.

The issue of the CCTV facilities at the venue came to light whilst police were investigating Mr Eren's arrest. No employee was able to download the footage police required. Due to the nature of the allegation; police seized the CCTV hard drive for further inspection. It became apparent that the images were not available and it was found that the circuit board in the machine had burnt out.

PC Rose summed up the police's representations:

- The Metropolitan Police and Licencing Team worked well in partnership. After the first incident they had a choice as to whether or not to seek a review at that time. They chose to work with the owners

to achieve an improvement yet within days of the meeting Serhat who had been a part of the meeting had made another underage sale.

- The proximity of St Edward's school was a concern, especially when pupils in the sixth form do not need to wear uniforms.
- Management at the premises seemed to have no control over staff. Nazim Eren had stated he was on his own at the premises between 8.00am and 4.00pm each day. Outside these times there was no DPS available.
- He had concern at Nazim Eren limited command of English.

Licensing Authority

Arthur Hunt presented the representations on behalf of the Licensing Authority. Following the first underage sale on 30 August 2013 he had visited the premises on the 6 September 2013 and conducted a licensing inspection. The Designated Premises Supervisor (DPS), Mr Nazim Eren was on site that day. It was clear that English was Mr Eren's second language and it became difficult to conduct the inspection. There were several issues that required addressing, and these were sent to him in the form of a letter dated the 6 September 2013.

One of the issues surrounded the locating of alcoholic drinks in the same space as soft drinks. It was explained to Mr Eren, that although it was not a condition of his licence, it was good practice to display alcoholic and soft drinks in separate areas, thus making it easier for him to supervise when children enter his shop. The shop is within walking distance of St Edwards Church of England School and Sixth Form College. He agreed that he would carry this out. Arthur Hunt visited the premises on four further occasions and this had not been resolved.

On the date of his visit, he was informed that the CCTV had developed a fault over the preceding weekend. He understood that as part of the second underage sale process that Mr Eren had been asked to provide the CCTV for the sale by the Police. However, this had never been supplied.

As part of the review process the premises had been asked to display a notice informing the public that an application had been received. Initially Trading Standards officers made the request and supplied the licence holder with a laminated copy of the notice. Arthur Hunt attended the premise on the 10 January 2014 and was unable to find the notice on display. When he returned on the 13 January 2014 he found the notice had been placed in the top left hand corner of the main shop window and was obscured by notices and produce. He entered and spoke with a member of staff, who gave his name as Serkan Eren. As Nazim Eren was not present, he was informed that the notice should be in an un-obscured location in order that the public could read its contents. The notice was placed on the shop door just below eye level. Arthur Hunt returned on the 20 January 2014 and 24 January 2014 and found that the notice had been moved or obscured. He had the notice repositioned on both occasions. On the 29 January 2014 he

found that the notice was in the same position but was covered with smaller promotional stickers. He entered the premises and on this occasion Nazim Eren (DPS) was in attendance with Serkan Eren. It was pointed out to Nazim Eren that the notice should be clear for the public to read. He appeared to have difficulty in understanding me and Serkan Eren stated that he would fully explain the importance of the notice. Both men were informed that Mr Hunt would be checking on the premises further. He visited on the 31 January 2014 and a colleague on the 1 February and found that the notice had not moved or been covered in any way.

He was present, on behalf of the Licensing Authority, on the 24 October 2013, when Trading Standards called a meeting with Mr Eren. Nazim Eren attended the meeting at the Town Hall with his 17-year-old son, Serhat Eren. Other Responsible Authorities in the form of the Police and Children Services were also in attendance. At Mr Hunt's suggestion, an interpreter attended the meeting, to ensure that Mr Eren was left in no doubt as to the importance placed upon the protection of children by the attendant Responsible Authorities.

Mr Eren made assurances that the situation would never arise again.

A week later another underage sale was made at the premises.

Conclusion

Section 146 of the Licensing Act 2003 on sale of alcohol to children makes it clear that the sale of alcohol to any individual under 18 is an offence.

In support of the other Responsible Authorities in this matter he asked us to consider revoking the licence for this premise.

Mr Eren had clearly failed to understand the importance of this issue, even when invited to meet with the Responsible Authorities and discuss how this situation could be prevented from repetition. His son, although only 17, was also at the meeting and appeared to fully understand the concerns expressed by all the Responsible Authorities. It was hugely disappointing that a week later Mr Eren's son should make a further underage sale. This was after he informed the Responsible Authorities at the meeting that he only stacked shelves at the premises. Under questioning he had re-iterated that he did not serve customers, especially with alcohol. It was Arthur's opinion that the Responsible Authorities could have not done anything further to impress upon Mr Eren and his son the importance of compliance in this area of licensing law. There seems to have been a blasé disregard of the Responsible Authorities and their concerns by Mr Eren; who is licence holder and DPS for the premises.

If we did not feel revocation appropriate, he had requested that we at least consider the removal of Mr Eren as DPS together with the imposition of the additional conditions, detailed below, on the premises licence to reinforce the prevention of harm to children licensing objective.

- 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.
- All occasions when persons have been refused service shall be recorded in writing and kept at the premises for six months.
- The installation or upgrading of any CCTV system shall comply with current best practice. In addition the documentation listed below shall be included in a 'system file' which should be readily available for inspection by a relevant authority:
 - site plan showing position of cameras and their field of view
 - code of practice
 - performance specification e.g. storage capacity, image file size, IPS for each camera and purpose of each camera position
 - operational requirement
 - incident log
 - maintenance records including weekly visual checks
- All staff shall be suitably trained for their job function for the premises. The training shall be written into a programme, ongoing and under constant review, and must be available to a relevant Responsible Authority when called upon.
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- Prominent, clear notices shall be displayed at the premises about the supply of alcohol to minors and the relevant offences involved.
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- Prominent clear notices shall be displayed at the point of entry to the premises and in a suitable location at any points of sale advising customers that they may be asked to produce evidence of their age.
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- Alcohol and soft drinks are to be stored in separate and clearly segregated areas.

Response of the DPS

Mr Eren through the interpreter stated that he had been running the premises for four years and all these incidents had occurred within a two week window.

In response the responsible authorities advised that they had become involved because of the first underage sale.

Keith Bush informed us that Trading Standards had visited the premises in April 2011 to sign them up to Challenge 21. A follow up visit had occurred in May 2012 to explain the challenge 21 process and run through the pack. This was a result of the complaint that the premises had made an underage sale. The Challenge 21 certificate was purportedly signed by Nazim Eren although he could not recall signing it.

Licensing had visited the premises in April 2010 when the premises licence had been issued. There had been no further visits until the underage sale in 2013. Again Mr Eren could not recall this visit.

Mr Eren provided details of the three members of staffs ages and their relationship to him. Serhat, his son was 17, Serkan was his nephew and was between 25 and 30 and Bayhan was another nephew who was 31. He lived above the shop.

Mr Eren was asked to confirm his home address, and he provided evidence, his driving licence, showing he lived at 166 Edgecot Grove, N15. He had lived there for some 18 months. Officers advised that he had failed to notify them of the change of address and therefore had failed to conform to the terms of his personal licence. Mr Eren claimed he had phoned the Licensing office with details of his change of address.

Mr Eren advised that he had studied for his Personal licence at college in Seven Kings.

5. Determination of Application

Consequent upon this hearing held on 25 February, 2014, our decision regarding the review of a premises license for the London Food Centre, 271 London Road, Romford is set out below, for the reasons shown:

We were 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, we also had regard to the Guidance issued under Section 182 of the Licensing Act 2003 and Havering's Licensing Policy.

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

Decision:

We accepted all the facts set out in the reports of the Trading Standards service, Metropolitan Police and Licencing Authority including the following:

- Under age sale on 30 August, 2013;
- Under age sale on 31 October, 2013;
- The failure to notify the Council of a change of address for 18 months;
- Signing the challenge 21 on 4 April, 2011;
- Attending the meeting on 24 October, 2013;
- The failure to segregate the alcoholic and soft drinks as requested by the Licencing officer;
- Failure to ensure the notice of the review was properly displayed.

We have noted the information supplied by the Metropolitan Police regarding incidents on 8 November and 2 December, 2013, although we have decided not to take these incidents in to account in reaching our decision.

We do not consider that Mr Nazim Eren was a creditable witness and had no faith whatsoever that he would make any serious attempt to comply with advice and guidance provided by the responsible authorities.

We consider that continuation of the licence would seriously prejudice the licensing objectives of the protection of children from harm and prevention of crime and disorder.

There had been two under age sales which under section 147A of the Licensing Act 2003 are classed as persistently selling alcohol to children.

The premises are close to a secondary school and sixth formers do not have to wear uniforms.

We consider the cause of the problems is Mr Nazim Eren's incompetence and wilful failure to comply with guidance. We have considered his offer to withdraw as Designated Premises Supervisor and allow his daughter to assume this role. However, we believe this is a family run business owned by Mr Nazim Eren . Other family members have been involved in the mismanagement of the premises and if Mr Eren's daughter were to take over it would only continue the ownership by Mr Nazim Eren and there would be no fundamental change in the management of the premises.

In the light of this we have decided to **revoke** the licence with immediate effect.

Chairman