

Havering Council – Decisions taken by the Licensing Sub-Committee on Tuesday, 16 September 2014

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Note: this decision list is for guidance only. The text of the minutes, which may be different, is definitive.

Part A – Items considered in public

<p>A1</p>	<p>APPLICATION FOR A PREMISES LICENCE FOR LONDON FOOD CENTRE, 271 LONDON ROAD, ROMFORD.</p>	<p align="right">Licensing Act 2003 Notice of Decision</p> <p>PREMISES</p> <p>London Food Centre, 271 London Road, Romford, RM7 9NJ</p> <p>DETAILS OF APPLICATION</p> <p>An application for a premises licence under section 17 of the Licensing Act 2003 ('the Act').</p> <p>APPLICANT</p> <p>Miss Cansu Eren, 166 Edgecot Road, Tottenham, London. N15 5HH</p> <p>1. Details of the application:</p> <p>The application is for a premises licence as follows:</p> <div data-bbox="938 1353 1892 1422" style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Supply of alcohol (off premises), recorded music & hours open to the public</p> </div>
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		<table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th align="center">Day</th> <th align="center">Start</th> <th align="center">Finish</th> </tr> </thead> <tbody> <tr> <td align="center">Monday to Saturday</td> <td align="center">08:00</td> <td align="center">23:00</td> </tr> <tr> <td align="center">Sunday</td> <td align="center">08:00</td> <td align="center">22:30</td> </tr> </tbody> </table> <p>During his response to the representations submitted by the Responsible Authorities the applicant's solicitor withdrew the application for recorded music.</p> <p>2. Seasonal variations</p> <p>There are no seasonal variations applied for in this application.</p> <p>3. Non-standard timings</p> <p>There are no non-standard timings applied for in this application.</p> <p>4. Comments and observations on the application</p> <p>The applicant acted in accordance with regulations 25 and 26 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 relating to the advertising of the application. The required public notice was installed in the 1 August 2014 edition of the Romford Recorder.</p> <p>The Licencing Officer in his report raised concerns regarding the plan which had been submitted with the application. The plan showed a bold red line around the perimeter of the premises. This red line delineated the ambit of licensing activities. This meant that the non-public areas i.e. the kitchen and store room could be used for the supply of alcohol.</p>	Day	Start	Finish	Monday to Saturday	08:00	23:00	Sunday	08:00	22:30
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		<p>In his presentation the solicitor acting for the applicant advised that the plan was in accordance with the requirements of Regulation 23 of the Premises Licences Regulations which stated that the plan should show:</p> <ul style="list-style-type: none"> • The extent of the boundary of the building and any external and interior walls of a building and if different the perimeter of the premises. • In the case where the premises are used for more than one existing licensable activity, the area within the premises used for each such activity. <p>He maintained that the plan met all these requirements. In consultation with his client he advised that no more than 30% (approximately) of the selling space would be used to display alcohol.</p> <p>5. Summary</p> <p>There were no representations made against this application from interested parties.</p> <p>There were four representations made against the application from responsible authorities.</p> <p>6. Details of Representations</p> <p>Valid representations may only address the following licensing objectives:</p> <ul style="list-style-type: none"> • The prevention of crime and disorder; • The prevention of public nuisance;

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		<ul style="list-style-type: none"> • The protection of children from harm; • Public safety. <p>7. Representations</p> <p>Interested parties' representations</p> <p>There were no representations from interested parties.</p> <p>Responsible Authorities' representations</p> <p>i) Trading Standards</p> <p>The representation from Trading Standards addressed the following objectives:</p> <ul style="list-style-type: none"> (1) Protection of Children from Harm; and (2) Prevention of Crime and Disorder. <p>The Trading Standards Manager stated that the London Food centre was a small family business and he was not convinced that the change of Designated Premises Supervisor to another member of the family, who had worked at the premises before, would change anything.</p> <p>If the sub-committee were to grant the licence he asked that Nazim, Beyhan and Serhat Eren be banned from having any role at the premises. If this was unacceptable he asked that these three persons be required to complete and pass a personal licence course or the Fair Trading Award (FTA), Do You PASS? Underage sales training.</p>

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		<p>Poor management at the premises had resulted in two underage sales of alcohol within a three month period. The sales occurred on the 30 August, 2013 and 31 October, 2013. The second sale occurred just a week after a meeting between the responsible authorities and the premises management to prevent further underage sales. Serhat Eren who was present at the meeting made the second sale. At that time he was only a minor himself.</p> <p>The sale on 30 August had been made by Beyhan Eren.</p> <p>It was as a result of these persistent sales, as defined by Section 147A of the Licensing Act 2003 The Sub-Committee at its meeting held on 25 February, 2014 agreed to revoke the then existing licence.</p> <p>(ii) Children and Young People’s Services</p> <p>The representation from Children and Young People’s Services addressed the following objective:</p> <ul style="list-style-type: none"> • Protection of Children from Harm. <p>The service had a number of concerns regarding the application due to the previous history and the familial link between the current applicant and the previous licence holder. The application provided no details of how the premises would be run and whether or not Mr Nazim Eren would be involved with the running of the premises.</p> <p>Children Social Care would have liked to have received an action plan setting out exactly how each of the 22 separate conditions would be implemented and embedded,</p>

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		<p>matched to a timeline for completion. With regard to training they would wish to see the nature of the training whether it would be delivered by an accredited trainer and the expected outcomes of the training.</p> <p>(iii) Licensing Authority</p> <p>The representation from Trading Standards addressed the following objectives:</p> <ul style="list-style-type: none"> (1) Protection of Children from Harm; and (2) Prevention of Crime and Disorder. <p>The Licensing Authority was concerned because Cansu was part of a failed regime. There was concern that there was no indication as to what role, if any, Nazim and Serhat Eren would have in the business now Cansu was the Designated Premises Supervisor.</p> <p>A detailed history of the premises was provided.</p> <p>Although the applicant has supplied a list of twenty-two proposed conditions, many of these were the conditions suggested to the previous Licence holder at the meeting on 24 October, 2013. It was expected by those present at the meeting that Mr Nazim Eren would submit an application for a minor variation to the premises licence based on the discussed additional conditions. This never materialised and did not prevent a further underage sale a week later.</p> <p>These conditions were submitted to the sub-committee which considered the review. They did not feel that the imposition of these additional conditions would resolve the problems.</p>

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		<p>Mr Hunt the Licencing Officer, visited the premises on the 19 August, 2014 after Nazim Eren had withdrawn his appeal against the revocation of his licence. When he entered the premises he saw Mr Nazim Eren at the rear of the shop and Serhat Eren (his son and brother of the applicant) was behind the counter. Nazim Eren refused to speak to Mr Hunt and left the shop. Serhat advised Mr Hunt the 'Sue runs the shop now.' He assumed this meant Cansu, the applicant.</p> <p>Whilst at the premises he noticed that blankets had been put in place to cover up the alcohol. However, one of the blankets was badly placed and did not cover the alcohol entirely. It also showed that the previous request to separate the soft drinks from the alcohol had never been actioned. Before leaving the premises he pointed out to Serhat Eren that the alcohol should be removed.</p> <p>He also noticed that Part B of the previous licence was still on display. He took possession of this.</p> <p>Later that day he received a telephone call from Dadds, Solicitors the agent for the applicant, Cansu Eren. He informed them of what he had witnessed and was advised 'we told them to remove the alcohol.'</p> <p>Mr Hunt called Paul Jones to present additional evidence. Mr Dadds indicated he was happy for the evidence to be presented.</p> <p>The Licencing Service had received allegations that the London Food Centre was continuing to sell alcohol although the premises no longer had a licence. Paul Jones, Licensing Officer visited the premises on the 9th September, 2014. When he entered the premises he noted that there were two people present in the premises. One was an</p>

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		<p>unshaven olive skinned male apparently in his late fifties. This person has not been identified. He was standing on the shop floor. The second person was an olive skinned female apparently in her twenties was located behind the shop counter. Mr Jones identified this female as the applicant Cansu Eren.</p> <p>He noted that a number of fabric sheets were hanging in front of a number of shelves in the shop covering their contents. He asked 'Have you got any white wine?' The man said 'Yes, what would you like?' as he walked further in to the shop. He lifted a sheet exposing shelves of various types of wine. Mr Jones chose a bottle of Echo Falls Pinot Grigio on the recommendation of the man. He took the bottle to the shop counter where the female took his money and placed the bottle first in a black plastic bag then into a second carrier bag coloured blue.</p> <p>Having considered all his representations Mr Hunt concluded that the Licensing Authority do not have any confidence that the applicant will introduce a robust regime to counteract the failings of the previous licence holder. The major concern is the premises' close proximity to St Edwards' Secondary School and the obvious attendant risk.</p> <p>Although the applicant was in charge of the premises as at 19 August, alcohol was still on display, and on the 9 September, she was the person selling the bottle of wine.</p> <p>(iv) Metropolitan Police</p> <p>The representation from the Metropolitan Police addressed the following objectives:</p> <ul style="list-style-type: none"> (1) Protection of Children from Harm; and (2) Prevention of Crime and Disorder.

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		<p>PC Rose referred to the representations submitted by the other responsible authorities and stated that in his opinion the representations submitted clearly showed that Miss Cansu Eren was part of the family and would be influenced by other members of the family.</p> <p>He wished to refer to his visit to the premises on the 11 September, but as this had not been submitted as evidence previously the Sub-Committee accepted Mr Dadds' submission that this should not be submitted.</p> <p>At a later point in the hearing following Miss Eren's assertion that Nazim Eren had not been present in the shop since 19 August, 2014, P C Rose referred to his visit on 11 September. When he arrived he saw Nazim Eren behind the counter but that he left rapidly as soon as he saw P C Rose.</p> <p>8. Applicant's response</p> <p>Mr Dadds on behalf of the applicant responded to the points raised by the responsible authorities as follows:</p> <p>(1) Mr Nazim Eren</p> <p>There were many examples where a wife has taken over a licence when the husband has been banned. There is no reason therefore why the daughter cannot take over the premises. He indicated that the applicant was happy to accept a condition excluding Nazim Eren from any part in running the business.</p> <p>He was of the opinion that all the responsible authorities had misdirected themselves.</p>

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		<p>Cansu Eren had acquired the business from her father Nazim. He produced as evidence a copy of the lease which had been reassigned to her. He referred to other documents to confirm that ownership had changed. However, he did not provide any proof.</p> <p>The actions of a third party, even a close relation does not prevent anyone applying for a licence.</p> <p>(2) New application</p> <p>Mr Dadds referred to the representations submitted by Trading Standards. Both the underage sales and illegal sells occurred under the previous owners. Similarly the concerns of both Children’s services and the Licencing authority related to the activities of the previous owner.</p> <p>It would be exceptional for an authority to revoke a licence for a first offence.</p> <p>It was a family run business but Nazim Eren made the proposal for his daughter Cansu to take over as Designated Premises Supervisor. There is no question of Cansu’s suitability to become the Designated Premises Supervisor.</p> <p>No members of the public have submitted representations and the premises are suitable for the sale of alcohol, subject to appropriate conditions.</p> <p>(3) Section 136 Offence</p> <p>It was not argued that Cansu sold alcohol when she did not have a licence to sell alcohol. Cansu herself admitted making the sale.</p>

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		<p>Was this in itself sufficient to deny her a licence? If the council decided to prosecute, typically she would receive a small fine, for a first offence. This would not be enough to prevent her holding a personal licence.</p> <p>The Licensing Authority had the opportunity to deal with the issue more robustly. Having visited the premises on more than one occasion and seen that the alcohol was still on the shelves, even if covered, they had the power to issue a section 19 notice requiring the removal of the alcohol from the premises. They did not do this.</p> <p>His advice to his clients would have been to remove the alcohol, or this was not possible to ensure it was covered up and display a notice to the effect that alcohol was not for sale.</p> <p>At no time were the licensing authority prevented from asking for the alcohol to be removed from the shelves.</p> <p>However, he accepted that none of these issues justified the sale of alcohol.</p> <p>In explanation he advised that his client, Cansu, had taken over the business on the 19th August. Since then customers had been complaining that they were unable to purchase alcohol from the premises. On the day she made the sale a regular customer had complained and walked out of the shop saying he would take his business elsewhere. Not wishing to lose further business if she refused a further sale, to Mr Jones, she sold him the bottle of white wine.</p> <p>(iv) The conditions he was suggesting be include on the licence would deal robustly with all the issues raised by the responsible authorities. He also suggested that a condition requiring electronic prompts on the till should also be included.</p>

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		<p>(v) The request for recorded music was unusual and had been include in error by a new member of his staff. He withdrew this from the application. However, he felt the comments and suppositions of the police were unhelpful. If the applicant wished to change the character of the premises as suggested by the police a new application would be required, not just a variation.</p> <p>With regard to the red line on the plan, the entire building was the licensed premises and the plan indicated where alcohol would be displayed. If this was to change a variation would be required. No more than 30% of the display would be used for alcohol.</p> <p>There is a clear change of ownership.</p> <p>He did not see any valid reason to exclude Cansu’s siblings from helping with the business. She will employ her own staff and all the required training would be undertaken by Mr Dadds office. The staff would be trained before they were permitted to sell alcohol.</p> <p>9. Matters agreed or disputed</p> <ul style="list-style-type: none"> • There was no argument concerning the incidents which took place on 30 August, 2013, (underage sale); 31 October, 2103, (underage sale); 23 May, 2014 9illicit goods found on premise. Mr Dadds is of the opinion that as these incidents occurred under the auspices of the previous management they are irrelevant. • On 19 August alcohol was still available on the shelves although poorly
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		<p>concealed. Serhat Eren was in the premises on that day and Mr Hunt maintains that Nazim Eren was also in the premises. Cansu, although she was not in the premises at that time states it was her partners father not Nazim. Serhat was advised to remove the alcohol from the shelves by Mr Hunt.</p> <ul style="list-style-type: none"> • On 9 September, 2014 Paul Jones visited the premises and was sold a bottle of wine by Cansu. Another older male was on the shop floor, but not identified. Cansu stated this was her partners father. • On 11th September, PC Rose visited the shop and found Nazim Eren serving behind the counter. Mr Dadds maintained this was an unfair submission by PC Rose. • Cansu informed the Sub-Committee that she has asked Nazim Eren not to come to the shop and explained the situation to him. She would be briefing her staff on the situation. <p>10. Determination of Application</p> <p>Decision:</p> <p>Consequent upon the hearing held on 16September, 2014, the Sub-Committee’s decision regarding the application for a Premises Licence for London Food Centre, 271 London Road, Romford is set out below, for the reasons shown:</p> <p>The Sub-Committee was obliged to determine this application with a view to promoting</p>
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		<p>the licensing objectives, which are:</p> <ul style="list-style-type: none"> • The prevention of crime and disorder • Public safety • The prevention of public nuisance • The protection of children from harm <p>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.</p> <p>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.</p> <p>The Sub-Committee delivered the following unanimous decision:</p> <p>We have carefully considered all the evidence and representations today.</p> <p>We are particularly mindful of the caution with which we should approach the evidence and the representations of the responsible authorities regarding the previous history prior to the applicant becoming directly involved.</p> <p>We are persuaded by the responsible authorities that in this exceptional case the history is relevant.</p> <p>It is not in dispute that:</p> <ul style="list-style-type: none"> • On 30 August, 2013 an underage sale took place, the sale was made by Mr Beyhan Eren;
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		<ul style="list-style-type: none"> • On 24 October, 2013 a meeting took place between the Metropolitan Police, Trading Standards, London Borough of Housing Licensing officers, a member of staff from Children’s Services and Mr Nazim Eren and his son, the applicant’s brother Serhan Eren reminding them of the requirements of licensing practice and informing them that a further test purchase would take place; • On 31 October, 2013 a further underage sale took place – Serhat, who was 17 at the time made the sale. The CCTV system could not be used to produce any relevant footage; • On 25 February, 2014 the licence was revoked and an appeal against this was lodged, being finally withdrawn on 15 August, 2014. <p>Since that hearing in February, 2014 we find the following further incidents:</p> <ul style="list-style-type: none"> • On 23 May, 2014 Trading Standards and HMRC officers visited the premises and found 1,600 illicit cigarettes and 18 bottles of counterfeit alcohol; • On 19 August, 2014 the Licensing Officer, Arthur Hunt visited the premises and saw Nazim Eren at the rear of the shop and Serhat Eren behind the counter. This was denied by Cansu Eren, although she was not personally present. We accept the evidence of Arthur Hunt;

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		<ul style="list-style-type: none"> • At that visit the shelving with alcohol products was still in situ with blankets put up to cover the alcohol; • Mr Hunt requested that the alcohol be removed. • Later that afternoon Mr Hunt was contacted by Dadds solicitor, the applicant’s agents. He advised them of what he had witnessed at the premises, to which the reply was “we told them to remove the alcohol”; • On 22 August, 2014 a Licensing Officer made a further visit and found the alcohol still located on publicly accessible shelves; • On 9 September, Cansu Eren sold alcohol to Paul Jones, Licensing Officer. • On 11 September, PC Rose visited the premises when Nazim Eren was serving behind the counter. <p>Miss Cansu Eren submitted the application on 24 July, 2014.</p> <p>We were provided with a copy of a lease dated 2nd July, 2014 transferring the lease from Nazim Eren to Cansu Eren.</p> <p>We heard evidence from Miss Eren that she had purchased the business as a going concern for £10,000 on 19 August, 2014. However, there was no documentary evidence provided to support this. She said that her father was using the funds to acquire a laundrette and was going to get out of the business at London Food Centre.</p>
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		<p>We found as a fact that despite assurances to the contrary Mr Nazim Eren was still involved in serving in the shop on 11 September, 2014.</p> <p>We agree with the findings of the sub-committee which sat on the original review that other family members have been involved in the mismanagement of the premises and if Cansu were to take over there would be no fundamental change to the management of the premises.</p> <p>The applicant contends that with the imposition of a number of robust conditions that the previous history will not be repeated.</p> <p>We have no concern about the robustness of the conditions, however, we are not satisfied that the applicant will ensure compliance.</p> <p>She accepts she sold alcohol to a licensing officer on 9 September in breach of licensing legislation as there was no licence in force at the time. Her mitigation is that a customer that morning had complained that he could not purchase alcohol and therefore she did not want to lose custom.</p> <p>This demonstrates to us an applicant without strong principles who is content to breach legislation. We are not satisfied of any real commitment to training or to compliance with conditions. We consider that if we were to grant this application this would undermine two licensing objectives:</p> <ol style="list-style-type: none"> 1. Protection of Children from harm. <p style="padding-left: 40px;">There is a school 500 metres away and there have been two</p>

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		<p>incidents of sales to young people under the age of 18. We do not feel there is sufficient distinction between previous management and the proposed new management. We cannot therefore be satisfied that the licensing legislation protecting children from unlawful access to alcohol would be adhered to.</p> <p>2. Prevention of Crime and Disorder.</p> <p>As with the protection of children from harm there is a history of licensing crime at these premises.</p> <p>Since February 2014 there has been further incidents, i.e the possession of counterfeit alcohol and illicit cigarettes and an unlawful sale of alcohol, This sale was made by the applicant.</p> <p>We are not satisfied that the management of the premises will improve as there is insufficient distinction with the old management, and we are not satisfied that there will be a prevention of crime and disorder.</p> <p>We therefore refuse the application.</p> <p>11. Right of Appeal</p> <p>Any party to the decision or anyone who has made a relevant representation [including a responsible authority or interested party] in relation to the application</p>

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		<p>may appeal to the Magistrates’ Court <u>within 21 days of notification of the decision</u>. On appeal, the Magistrates’ Court may:</p> <ol style="list-style-type: none"> 1. Dismiss the appeal; or 2. Substitute the decision for another decision which could have been made by the Sub Committee; or 3. Remit the case to the Sub Committee to dispose of it in accordance with the direction of the Court; and 4. Make an order for costs as it sees fit. <p>James Goodwin</p> <p>Clerk to the Licensing Sub-Committee</p>