

**MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE
Council Chamber - Town Hall
1 June 2015 (2.30 - 4.15 pm)**

Present:

COUNCILLORS

Conservative Group Frederick Thompson and Viddy Persaud

**East Havering
Residents' Group** Linda Van den Hende (Chairman)

Present at the hearing were the applicant were Mr Mehmet Keles, his agents Mr Kenan Kara, Mr Graham Hopkins and Ms Linda Potter.

Mr Marc Gasson Noise Specialist, Havering Environmental Health.

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

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

No interest was declared at this meeting.

1 APPLICATION FOR A TEMPORARY EVENT NOTICE UNDER SECTION 100 OF THE LICENSING ACT 2003.

PREMISES

Mirror Restaurant
3-7 Billet Lane
Hornchurch
RM11 1TS

APPLICANT

Mr Mehmet Ergun Keles
Mirror Restaurant
3-7 Billet Lane
Hornchurch
RM11 1TS

1. Details of Application

Mirror Restaurant was located in a parade of commercial outlets at the junction of Billet Lane and High Street in Hornchurch which comprised a part of the St Andrews ward. St Andrews ward was subject to a special licensing policy. The premises had yet to open and was currently being fitted out for the purpose of being a licensed premises. A premises licence application was currently on-going. The site occupied three commercial units knocked into one large venue. A large decked area has been constructed at the front of the premises while the premises' frontage comprises gate fold doors which presumably will be fully open during the warm weather. The commercial properties in this parade of shops had residential properties located above them.

The TEN application was submitted by Mr Mehmet Ergun Keles under section 100 of the Licensing Act 2003. The TEN was received by Havering's Licensing Authority on 14 May 2015.

The TEN was originally submitted on the behalf of Mr Keles by his agent with an intention to permit the provision of licensable activity from 2 – 8 June 2015. This original submission was made void, however, as it was contrary to s.101 (1) (a) of the Act which required a minimum of 24 hours between TEN. A previously submitted TEN, or TEN 'A', was to end on 1 June 2015. The second TEN, or TEN 'B', was subsequently amended to reflect the current dates, i.e. 3 – 9 June 2015.

TEN A was a late TEN and, apart from the dates, was identical in content to the standard TEN, TEN B. Both the Police and Havering's Noise Team submitted objection notices against TEN A. As a result, a counter notice was issued by Havering's licensing authority. TEN A was therefore not authorised and may not occur.

Further to the submission of this TEN, TEN B, discussions between Mr Keles' agent and the Police resulted in the receipt of a further amendment to the TEN in accordance with s.106 of the Act. This modification reduced the TEN's terminal hours from 01:00 to 00:30 and reduced the maximum capacity from 250 attendees to 180. These modifications addressed Police concerns.

Havering's Noise Specialist was not involved in the discussion between Mr Keles' agent and the Police. Havering's Noise Specialist had concerns about the TEN and submitted an objection notice.

At the hearing the sub-committee was informed that the details of TEN is:

Monday – Saturday 09:00 – 23:30
Sunday 09:00 – 23:00

2. Grounds of Objection

There was one objection notice made against the TEN from a responsible authority, namely Havering's Noise Specialist, Mr Marc Gasson, submitted on 18 May 2015.

Under the Licensing Act 2003 as amended, the police and environmental health have three working days to lodge an objection to a TEN on the grounds relating to one or more of the four licensing objectives (The Prevention of Crime and Disorder, Public Safety, the Prevention of Public Nuisance and the Protection of Children from Harm).

3. Details of Representations

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

1. He remained concerned about the close proximity of residential properties to the application site. The closest dwellings were immediately adjacent to the premises, with some being above the commercial properties in Billet Lane. Residents are likely to experience unacceptable levels of noise from the following sources:-
 - Amplified music from the venue, particularly if the appropriate noise control measures (i.e. noise limiter and lobbied exits) are not put in place.
 - Vehicle movements, the premises has no parking spaces which considering the proposed capacity for the venue will mean vehicles will be using the street to park in, potentially directly outside nearby residential properties exposing residents to unacceptable levels of noise particularly after the venue has closed at 23:30 hours
 - People noise from both inside and outside the premises but particularly after the premises closes when patrons could be under the influence of alcohol.
 - People noise from patrons using the outdoor seating area until the specified closing hours.

Mr Gasson noted that the premises had now amended its terminal hours for regulated activities at the hearing.

4. Applicant's response.

Mr G Hopkins, the representative of the applicant addressed the sub-committee and responded to the points made by Mr Gasson - Noise Specialist.

The Sub-Committee was informed that the applicant had 25 years' experience in various restaurant businesses.

The operating hours had been amended as stated above.

Mr Hopkins advised the sub-committee to be mindful that the premises was a new and untested venue for the potential of noise.

The applicant was looking to bring back in to use three units in a flagship area of restaurants.

The following series of measures were offered:

- To close terrace by 22:00 hours daily
- No drinks would be taken outside after 22:00 hours
- To shut the front windows when music is played from the single vocalist and pianist
- That recorded music was to be played in the background
- The sub-committee was informed that the premises had been fitted with sound insulation between ground and first floor. The work had been certified by Havering Building Control.
- The sub-committee was informed that the applicant also owned the residential accommodation above the premises.
- The front of the premises was restricted by the double yellow lines. There was a Sainsbury car-park that customer would be expected to use, customers would also be informed via the premises website and flyers not to park outside the venue.

The applicant was keen to operate as a restaurant where customers either walked to the car park or order a Taxi cab from the premises.

The sub-committee was informed that the premises was situated on a busy bus route and as such some level noise would be expected.

The applicant was of the view that Environmental Health Authority had other powers that it could use to control activities at the premises.

Mr Hopkins's clarified that the on-going premises licence application did restrict alcohol sales to those accompanying a substantial table meal only.

Licensing Officer Jones indicated otherwise to the sub-committee, to the effect that there was no such offer by the applicant in the premises licence application to restrict alcohol sales in any way. Mr Hopkins then indicated that an amendment to the premises licence application would be made the following day in which alcohol supplies would be made ancillary to a table meal only.

In response to an enquiry from the sub-committee, Mr Hopkins detailed that the TEN applied for was to enable the premises to trade, facilitate the opening of the premises as staff had already been employed.

The sub-committee was informed that the premises was fitted with a CCTV system that shall incorporate a recording facility for a minimum of one calendar month.

There would be two personal licence holder on the premises, adequate staff, facility for Taxi cab service, Challenge 25 and as the premises would be operating until 23:30 hours, there was still adequate public transport available.

The sub-committee was informed that the premises would be an upmarket restaurant with staff uniformed in black and white. A refusal register would be kept in the premises.

Mr Hopkins informed the sub-committee that the premises had agreed with the Police a capacity of 178 including staff.

5. Determination of Application

Consequent upon the hearing held on 1 June 2015, the Sub-Committee's decision regarding the application for a Temporary Event Notice for Mirror Restaurant 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 Notice would undermine any of the four licensing objectives.

- **Prevention of Public Nuisance**

The Sub-committee noted the concerns of the Noise Specialist that he had not had the opportunity to be consulted. That he had no evidence of and assurance of the sound insulation test to the premises.

The Sub-committee noted Planning permission was granted in January 2013 for the use of 5-7 Billet Lane as a restaurant but not for unit 3. That a condition limiting opening hours from 1200 to 2300 Monday to Saturday with no opening on Sundays or Bank Holidays. Other conditions requiring certain details – e.g. fume extraction to be submitted prior to the use commencing had also not been submitted.

The Sub-committee were concerned with the details of events that applied to the TEN.

The Sub-committee were concerned that the applicant had not made an effort to satisfy the Noise Specialist.

6. Decision

Having considered the oral and written submissions of the Noise Specialist in relation to the application, the decision of the Sub-Committee decide was to **Refuse** the application on the grounds of Public Nuisance.

The Sub-committee considered the objections from the Environmental Health Authority (EHA) that related to the prevention of public nuisance objective. The EHA objections were centred on noise nuisance from within and outside the premises. Representation was made by the EHA that there had been no sound insulation to test that the arrangements for noise reduction at the premises were adequate. The EHA had advised that there were a number of residential premises adjacent to the application site. The Sub-committee was concerned that allowing the event to go ahead would undermine the licensing objective of public nuisance as presented by the EHA. Whilst the applicant had been willing to give undertakings regarding concerns about noise nuisance that could possibly have addressed the concerns of the EHA, the Sub-committee noted that it could not impose conditions on the TEN and to allow the event to go ahead would undermine the licencing objective. As part of the consideration of the TEN, the Sub-committee noted that the premises user had made the TEN application as a means to commence early trading at the premises before the consideration of a full premises licence application. The premises user's representative informed the Sub-committee that no specific event has been planned and the application was to allow the premises to open.

The Sub-committee also considered the guidance issued under Section 182 of the Licencing Act 2003 in considering the TEN application. The sub-committee noted in particular that paragraph 7.6 of the guidance the TEN did not relieve the premises user from any requirements under planning law for appropriate planning permission where it was required. The Sub-committee was not satisfied that the premises user had appropriate planning permission for the TEN.

Chairman