

LONDON BOROUGH OF LEWISHAM

MINUTES of the meeting of the LICENSING COMMITTEE, which was open to the press and public held on MONDAY 9 APRIL 2018 in Room 3 Civic Suite, Catford Road, Catford SE6 4RU 7.15pm.

Present

Councillor Stamirowski (Chair), Councillor Michael (Vice Chair) Councillors Elliott, and Slater.

Apologies for absence were received from Councillors Barnham, Bell, Britton, and Johnston-Franklin.

Oregano Leaf 98 New Cross Road SE14 5BA

Applicant

Not represented

Representations

Councillor Millbank- Telegraph Hill Ward
P.C. Gerry – Metropolitan Police
Daniel Power - Crime, Enforcement and Regulation (CER) Officer

Top Hut Pizza and Chicken 403 Hither Green Lane, SE13 6TR

Applicant

Abdul Ajan Haidari

Representations

Kelly Hickmott – Crime, Enforcement and Regulation (CER) Officer
P.C. Gerry – Metropolitan Police
Mr Hawkes, Mr Maitland and approximately 6 other residents

Also Present

Lisa Spall (Crime, Enforcement and Regulation Manager)
Petra Der Man (Principal Lawyer)

1. Minutes

RESOLVED that the minutes of the meetings of the Licensing Committee held on 6 and 13 February 2018 be confirmed and signed as a correct record.

2. Declarations of Interests

None.

3. Oregano Leaf 98 New Cross Road SE14 5BA

- 3.1 The Chair welcomed Councillor Millbank. It was noted that the applicant was not represented at the meeting. She then invited Ms Spall to introduce the application.

Licensing Officer

- 3.2 Ms Spall said that members were being asked to consider objections to an application for a full variation of a premises licence made by Mr Allahdad Momtaz, the premises licence holder for Oregano Leaf 98 New Cross Road SE14 5BA. She outlined the application. Objections had been received from the CER service, Metropolitan Police, Councillor Millbank, local ward councillor representing local residents and three members of the public, in relation to the objectives of the prevention of Crime and Disorder and of Public Nuisance.

Representations

- 3.3 P.C Nick Gerry said that he attended the premises on 6 March 2018 with officers from Lewisham Council. Oregano Leaf only has one condition on their licence and that is that a member of staff able to operate the CCTV must be on the premises at all times. During their visit, it was established that no staff member could operate the CCTV which is a breach of the licence. One member of staff present during the visit, was the father of the premises Licence holder. In addition, the premises licence was not displayed correctly.
- 3.4 P.C Gerry said that although there have only been two breaches, they only have one condition with two elements to it and they breached both of them. Applying for an extension of hours in a Cumulative Impact Zone comes with responsibility. Although the premises is now working within its licensable hours, it is disappointing that they have not addressed these two breaches. If they are unable to maintain a working CCTV and display the premises licence, the licensing objectives are at risk if the hours are extended. The CCTV is vital for, not only protecting themselves, but also customers.
- 3.5 Mr Power said that this Committee considered an application for a full variation of a premises licence for Oregano Leaf in August 2017. Details of the representation made by the CER service objecting to the application is included in the agenda.
- 3.6 Mr Power said that his subsequent objection provides an offer to lift the objection as a means of ensuring the licensing objectives were safeguarded which is of paramount importance taking into account the location of the premises in a Cumulative Impact Zone (CIZ). He said that he has worked with the premises licence holder to see whether they could agree the licenced hours and suggested the following:

Sunday to Thursday midnight until 1am

Friday and Saturday midnight to 2am

The addition of 4 conditions outlined in page 37 of the agenda.

- 3.7 Mr Power said that it is evident that there has been a commitment on the part of the premises licence holder to repair a large part of the damaged caused by his brother, the previous licence holder, Zordad Momtaz. However, to a large degree, this has been enforced upon the premises by ongoing compliance visits by the Police, CER service as well as imposed hours agreed by 'just Eat' so the local authority has given the Premises Licence Holder little option but to adhere to the existing conditions. It is hoped that the addition of such conditions offered by the CER service will ensure compliance expected of a Premises Licence Holder within a CIZ and will ensure continued compliance once the local authority scales back its focus in terms of

working to ensure compliance. Such conditions should ensure that the premises do not fall back into its previous ways of working where licensing objectives were not upheld.

- 3.8 The Chair said that she was surprised that neither the applicant nor the solicitor were in attendance. Ms Spall said that Mr Rana, who is the applicant's solicitor, said that he had spoken to his client, and that he was not willing to change the hours on the application. Last week Mr Rana contacted officers again to say that they agreed to the hours but not the conditions.
- 3.9 Councillor Millbank said that she is one of the ward members for Telegraph Hill. She would be speaking on behalf of the other two members, and in particular the Kender Tenants and Residents Association; the Chair and Secretary were on holiday and unable to attend. She was also representing local residents.
- 3.10 Councillor Millbank said that the objections had been made to prevent a public nuisance and to prevent the fear of crime and disorder. Their main concerns are regarding the location of the premises in relation to their estate. She outlined the area near the premises which includes the Kender Estate, Gerrard House which is a tower block with 52 families living in it, other houses and a Domino's Pizza shop. She said that she had not had any formal complaints, the complaints were those that she heard because she regularly attends local residents' meetings.
- 3.11 Councillor Millbank said that there had been confusion about the hours on the website. At the moment it displays the correct opening hours but in the past different hours were advertised. Ms Spall confirmed that their current hours of trading is until midnight 7 days a week.
- 3.12 Councillor Millbank said that residents have concerns because the premises had been trading beyond midnight in the past. It is a takeaway establishment and patrons call in to pick up orders. The premises is on a red route and near a pedestrian crossing so cars and bikes should not be stopping outside the premises. Many patrons stop in Briant Street, right outside Gerrard House.
- 3.13 Councillor Millbank said that she has spoken to the Chair and Vice Chair of the residents association. They have noted the proposed new hours but still wanted their concerns to be addressed to this Committee. Residents also have concerns regarding the extension of hours because the Pizza shop on the opposite side of the road may want to extend their hours as well.
- 3.14 Councillor Elliott said that one of the residents refers to a fight between youths and the Police were called. He asked P.C Gerry whether he had any record of such an incident. P.C Gerry said that he had looked at the crime report and the premises were targeted by a gang of youths. No one was hurt.
- 3.15 Members withdrew to make their decision. When they returned to the meeting it was:

RESOLVED that the application for the full variation of the premises licence be refused.

- 3.16 Ms Spall said that any registered party and the applicant may appeal against this decision to the Magistrates Court within 21 days from the date of the decision letter which would be sent out within 5 days of the meeting.

4. Top Hut Pizza and Chicken 403 Hither Green Lane SE13 6TR

- 4.1 The Chair welcomed all parties to the meeting and introductions were made. She then invited Ms Spall to introduce the application.

Licensing Officer

- 4.2 Ms Spall said that members were being asked to consider objections to an application for a full variation of a premises licence made by Mr Haidari who is the premises licence holder for Top Hut Pizza and Chicken 403 Hither Green Lane SE13 6TR. Representations had been received from the Metropolitan Police, Planning Service, the CER service and local residents, in relation to the licensing objectives of the prevention of Crime and Disorder and of Public Nuisance. She outlined the details of the application and introduced officers and residents who would be making representations.

Representations

- 4.3 Ms Hickmott said that the CER service objected to the full variation of the premises licence because, in the opinion of the licensing authority, the premises licence holder has failed to safeguard key licensing objectives. In particular the prevention of crime and disorder and prevention of public nuisance.
- 4.4 On 11 January 2018, CER Officers visited Top Hut Pizza and Chicken. A complaint had been received because the food registration notice was not displayed and the opening hours advertised on their website were outside their licensable hours. Advice was given about correct times being advertised and how the premises licence should be displayed.
- 4.5 On 5 March 2018, a data protection request form was submitted by the CER service to one of the several delivery services 'Just Eat'. It was confirmed that persistent licensable activity after permitted licensable hours had taken place between 3.3.18 and 6.3.18. On 3.3.18 there were 7 orders, the last was received at 2.11am. The premises should have closed at 1.30am. On 4.3.18 19 orders were received with the last one at 2.26am. They should have closed at midnight. On 6.3.18 there were 2 orders with the last one received at 12.56am. The premises should have closed at midnight.
- 4.6 Ms Hickmott said that the premises licence holder has persistently failed to uphold key licensing objectives. There were 28 offences within a 4 day period, which amounts to an offence via section 136 of the Licensing Act in relation to unauthorised activity. She recommended that the application be rejected in its entirety.
- 4.7 P.C. Gerry said that he attended the premises with Ms Hickmott on 5 March 2018 and they met the applicant. One of the matters discussed was that there is a planning condition on the premises that prevents trading after 11pm. Trading has taken place beyond this time, it is a breach of their licence and they have applied

to extend their hours further. He told the applicant that his advice would be to withdraw the application and address this planning issue and then make a new application for a variation of the licence.

- 4.8 The CER service then advised P.C Gerry that there had been breaches of the current trading hours. He considered this to be unacceptable because the premises licence holder was aware of his licenced hours when he applied for an extension. In fact, the only day that trading did not take place beyond licenced hours, was the day that he visited the premises with Ms Hickmott.
- 4.9 P.C Gerry said that he did consider suggesting a reduction in licensed hours for the premises. This was not accepted by the applicant's Solicitor and he said that there has been a complete lack of respect of the licensing objectives. If this application is accepted, it would be putting the licensing objectives at risk.
- 4.10 The Chair said that the premises is trading until 1.30am on Friday and yet planning regulations do not permit trading beyond 11pm. Ms Der Man said that statutory planning regulations do not have any bearing on Licensing Act provisions. There are two separate statutory provisions.

Applicant

- 4.11 Mr Abdul Haidari said that he is the premises licence holder and he outlined the extended hours for which he was applying. He said that he manages a small business and overheads are very expensive. He needs to extend his trading hours so that he can make money; he is new to the business. The local Domino's Pizza trades for longer than his takeaway business.
- 4.12 Councillor Michael said that Mr Haidari had been given guidance from the CER officers and the Police but he continued to trade outside of his licensed hours. Mr Haidari said that the information provided by 'Just Eat' referred to their previous premises at 252 Hither Green Lane. He called this company and asked them to change the address and the times. Ms Spall said that the information received from 'Just Eat' is that the orders were accepted by Top Hut Pizza regardless of the address.
- 4.13 Councillor Elliott said that residents have concerns about noise generated at the premises by mopeds going to and from the premises. He asked whether he had any plans to address this issue if the application is granted. Mr Haidari said that Brownhill Road is busy, with cars passing up and down 24 hours a day. There is a pizza shop that is open until 4am and there are also chicken shops. The mopeds at the premises are not noisy, they do not sound their horns and he had not received any complaints about noise from their neighbours.

Objectors

- 4.14 Mr Hawkes said that he lives in Hither Green Lane. He made the following points:
- There are no shops near the premises in Brownhill Road.
 - There are no shops in the vicinity of the premises open after 11pm.
 - Domino's Pizza is located in Brownhill Road but is the far end in Catford.

- Residents did not object to the original application for an extension until 1.30am but they would have objected if they had known that the applicant would then apply for a licence until 3am.
- Previous businesses at the premises have been a bakery and a restaurant and were closed before 11pm. There had never been any noise nuisance associated with either businesses and residents want to support their local businesses.
- Top Hut Pizza have consistently traded beyond their licenced hours.
- There is an illuminated sign above the premises that is too bright for residents. It was installed at 252 Hither Green Lane, their previous premises, where the pavement is wider. The pavement is narrower now and the light is more of a nuisance for residents.
- Vehicles park on the pavement across the road from residents. The engines start and stop all day. This creates noise.
- Opening hours are not displayed at the premises so customers arrive at the premises at all hours. Vehicles pull up outside residents' houses late at night which increases footfall and traffic. It causes noise and inconvenience.
- If this noise nuisance continues, it will be difficult for residents to open their windows at night during Summer months.

4.15 Mr Hawkes said that Top Hut Pizza advertise orders up to 5 minutes before closing. He asked for a definition of closing time. Ms Spall said that closing time is when the shop shuts. If alcohol is served, half an hour drinking up time is usually allowed. Most takeaway premises accept the last order between 10-15 minutes before closing. Ms Der Man said that an online customer or a customer on the premises may make an order for food up until the time of closing but not beyond that time.

4.16 Mr Hawkes said that last Thursday a leaflet was delivered through residents' doors. It states that the premises are open from 11pm until 3am Friday and Saturday and between 11pm and 2am Sunday to Thursday. These opening times are also displayed on their website. He said that the applicant's actions have shown a complete disregard to residents.

4.17 Mr Maitland said that he lives in Brownhill Road and from his garden can see the light above the shop which has been installed without planning permission. The sign is very bright and shines like a spotlight into his bedroom. Brownhill Road is busy but the volume of traffic reduces between 11pm and midnight. The sound of mopeds after this time becomes very noisy.

Conclusion

4.18 Mr Haidari said that he did have the opening times of the shop on the wall and he had shown it to the Police officer. Ms Hickmott said that she had told him at the time that the 3 pages must be displayed. Mr Haidari said this had been done and he offered to show a photograph in evidence. When the flyers were sent out, it had times associated with the old premises because they forgot to update it.

4.19 The Chair asked why, on 23 occasions, food was sold well after opening hours. Mr Hairdari said that was a misunderstanding with the Police officer who did not tell him that he had to pull the shutters down to customers after licensing hours. He thought he could accept orders because he had applied for the extended hours.

When he received the objection from the Police they did not take any orders after their licencing hours.

4.20 Members of the Committee then withdrew to make their decision. When they returned it was:-

RESOLVED that the application for the full variation of the premises licence be refused.

4.21 Ms Spall said that any registered party and the applicant may appeal against this decision to the Magistrates Court within 21 days from the date of the decision letter which would be sent out within 5 days of the meeting

The meeting ended at 8.15pm.

Chair