

**MINUTES OF THE LICENSING COMMITTEE
TUESDAY 15 AUGUST 2017 at 7.15 pm**

Present: Councillor Stamirowski (Chair) Councillors, Elliott, Johnston-Franklin, and Slater.

Apologies for absence were received from Councillors Barnham, Bell, Britton, Michael and Milne.

Also Present:

Oregano Leaf 98 New Cross Road SE14 5BA

Zardad Momtaz – Applicant

Objectors

Dan Power - Crime and Enforcement
P.C Gerry – Metropolitan Police

Officers In attendance

Lisa Spall - Crime Enforcement and Regulation Manager
Jay Kidd-Morton –Lawyer

1. Minutes

RESOLVED that the minutes of the meeting of the Licensing Committee held on 29 June, 4, 12 and 19 July 2017 be confirmed and signed as a correct record. 3 August 2017 to be confirmed at the next meeting.

2. Declarations of Interests

None.

3. Oregano Leaf 98 New Cross Road SE14 5BA

3.1 The Chair welcomed all parties to the meeting and introductions were made. She then invited Ms Spall to speak.

3.2 Ms Spall said that objections had been received from the Crime and Regulation service and the Metropolitan Police to a full variation of a premises licence for Oregano Leaf. She outlined their current licence and said that the application was for late night refreshment 12am to 6am Monday to Sunday.

Applicant

3.3 Mr Momtaz said that he made a mistake and his shop had been trading beyond the licensed hours. He needed more money to pay for the extra food that he had bought from a company; he also needed to pay for his staff costs and overheads at the shop. He had brought bills to the meeting to show to members of the committee but was advised that it could be used as evidence. He said that he

wants to extend his licensing hours to increase his income to enable him to pay his bills.

Representation

- 3.4 Mr Power said that the Crime, Enforcement and Regulation (CER) Service considered it necessary to submit a representation against the full variation application with regard to Oregano Leaf on the grounds of the premises repeatedly undermining key licensing objectives; most notably the prevention of crime and disorder and the prevention of public nuisance. A map was circulated outlining the position of the premises which is in the Cumulative Impact Zone.
- 3.5 Mr Power outlined officers' contact with Oregano Leaf as follows.
- 22 May 2017 – Initial visit to discuss a complaint received in relation to an alleged trading outside of authorised licensing hours. Officers discussed the advertised hours on 'Just Eat' which were advertised as being until 0430.
 - 23 May 2017 – CER officers provided the premises licence holder with pre-application advice for the possibility of extending licensable activity via the use of TENs and/or a variation of the premises licence. Officers reiterated the further incidents of trading past permitted hours would result in action via Section 136 of the licensing Act 2003.
 - 6 June - CER officers witness trading at the premises at 0002 and observed the continued provision of late night refreshment.
 - 2 July 2017 – CER officers visited the premises at 0105 and observed the continued breaches of the licensing objectives.
 - 3 July 2017 – CER officers met the premises licence holder to discuss offences observed in relation to section 136 of the Licensing Act 2003.
- 3.6 Mr Power then referred to information given to the clerk for circulation to members of the Committee. The Chair explained that the information could not be circulated to members without the approval of the applicant. Although the clerk had sent the information on two occasions to the applicant, a response had not been received.
- 3.7 Mr Power referred to his first piece of evidence entitled DP1. It provides details of a data protection requests made to an online takeaway service, 'Hungry House'. It outlines orders accepted by the premises after licensable hours of 0000 between 1 June and 19 July 2017. Data confirmed that despite the premises being authorised to accept orders until 0000, there are only 3 days within the month of June 2017 where the premises complies with their authorised hours. Orders were accepted until as late as 0435. Over 200 orders were accepted after permitted hours on 'Hungry House' during June 2017.
- 3.8 Mr Power's second piece of evidence entitled DP/2 provides details of a data protection request made to online takeaway delivery service 'Just Eat', again requesting information regarding orders accepted by Oregano Leaf after the licensable hours of 0000 between 1 June and 19 July 2017. The data suggests that there are only 2 days during the month of June 2017, whereby the premises have not traded past their permitted hours. Orders were accepted up until 0522. During the month of June 2017, the premises accepted over 206 orders after their permitted hours via 'Just Eat'.

- 3.9 Mr Power said that the data in DP/1 and DP/2 did not include orders accepted via the company's on line site, via telephone as a consequence of customers visiting the premises in person after midnight.
- 3.10 Mr Powers then highlighted officer visits to the premises where trading continued after staff were advised that trading was taking place outside their licensing hours:
- Officers visit and observe sales on 6 June 2017 at 0020. Data from 'Just Eat' states further deliveries at 0101,0118 and 0211.
 - Application for variation made on 27 June 2017. Data from Hungry House of sales at 0021 and 0128. 'Just Eat' sales at 0108, 0242, 0259 and 0326.
 - Officers visit on 2 July 2017 – Data from 'Hungry House 0007 to 0435 Data from Just Eat 0106 to 0513.
 - Following a meeting with the premises licence holder at CER offices on 3 July 2017 – Data from Just Eat – 0001 to 0247.
- 3.11 Mr Powers said that taking into account over 460 separate offences in relation to pursuing licensable activity in the form of hot food orders after permitted hours, in addition to the immigration offences which P.C Gerry would outline, he recommended that the application be refused because the extension of the licensable hours would have an adverse effect on the cumulative Impact Zone and on the licensing objectives.
- 3.12 P.C. Nick Gerry then addressed the Committee. He said that on 12 July 2017, he attended the premises with officers from the CER and from Immigration. A chef was working at the premises. Following checks by immigration officers, it was discovered that this worker was not permitted to work in this country and they arrested him. It was not the first time that this member of staff was found to be working at the premises. He had been working at the premises when the food team visited in 2014.
- 3.13 P.C Gerry said that Mr Momtaz had been given a chance by Mr Power. During his visit, P.C Gerry noted that there is only one condition on the licence, the installation of CCTV and it was not working. He believed that this showed a complete disregard for the licensing objectives.
- 3.14 P.C. Gerry said that the premises licence holder had been given a lot of advice, and warnings but this had constantly been flouted. He recommended that the application be refused.
- 3.15 Councillor Elliott asked when the last visit to the premises had been. Mr Power said that it was on 28 July 2017 to observe compliance.
- 3.16 The Chair asked Mr Momtaz whether he had anything to say about the evidence presented. Mr Momtaz said that he had not understood the situation and had made a mistake.
- 3.17 Members of the Committee then withdrew to make their decision. When they returned it was:-

RESOLVED that the application be refused.

3.18 Ms Spall said that Mr Momtaz would receive a decision letter within the next 5 days.

The meeting ended at 8.50pm

Chair