

**MINUTES OF THE LICENSING SUB-COMMITTEE B (2003 LICENSING ACT)
24 January 2006**

Councillors Patel (Chair)*, Floyd*, E Prescott, Haley*

* denotes members present

LSC25 APOLOGIES FOR ABSENCE (Agenda Item 1)

Apologies were received from Councillor E Prescott who was substituted by Councillor Haley

LSC26 URGENT BUSINESS (Agenda Item 2)

Item 7 on the Agenda (Lomnava) was withdrawn from the Agenda because the applicant withdrew his application for a new premises license.

Item 8 on the Agenda (Bingol) was withdrawn from the Agenda because it was mistakenly thought to be in Cllr. Haley's ward and will be heard at a later date.

LSC27 DECLARATIONS OF INTEREST (Agenda Item 3)

No declarations of interest were received.

LSC28 MINUTES OF PREVIOUS MEETINGS OF LICENSING SUB-COMMITTEE C
(Agenda Item 4)

RESOLVED

That the Committee approves the minutes of the meetings of Licensing Sub-Committee C of 8 December 2005.

LSC29 MIZGIN RESTAURANT, 485 GREEN LANES, N4 (Harringay ward): To consider an application for a NEW Premises Licence (Agenda Item 5).

The Licensing Officer, Daliah Barrett presented the Report for the New Premises License to the Committee highlighting the current position in terms of the operation of the premises. Ms Barrett reported that the premises had been the centre of enforcement action. The applicant had kept the premises open constantly on a 24 hour basis. The matter was taken to court and costs were awarded to the Council in the amount of £3000 for operating without a license. Mr Barrett finally reported that the premises had continued to operate on a 24 hour basis. Ms Barrett also highlighted to the Committee that the current application was not for the sale of alcohol because the applicant did not possess a personal license. Once this was received, the applicant could then apply for a license for the sale of alcohol. Ms Barrett continued that there had been a number of representations against the application. The Enforcement Services had submitted comments to the application. The Noise Team commented on the application and advised that this premise was served with a noise abatement notice for noise emanating from the extractor fan. The Heavy Enforcement Team had witnessed the premises open and

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trading in the early hours of the morning and the matter had been referred to legal. Ms Barrett highlighted that the Fire Officer had objected to the application, but that this had been withdrawn. The Planning Officer had objected the application on the grounds that the premises were not permitted to be operated between 07:00 or after midnight on Monday to Saturday and not at all on Sundays or Bank Holidays under the terms of its planning consent. Finally, Ms Barrett highlighted that there had been 3 letters of objection to the applicant for interested parties.

The Chair invited questions to the Licensing Officer. The applicant, Mr Nizamettin Kovaycin, asked Ms Barrett why the Enforcement Services claimed the premises were opened for 24 hours. Ms Barrett replied by giving evidence of an occasion when the premises was found to be open at 05:00. Councillor Haley asked Ms Barrett when the premises were last visited by Enforcement Services. The reply was that Heavy Enforcement had visited in January 2006, and the Noise Team had visited in December 2005. The Chair asked why the Fire Officer had withdrawn his representation. Ms Barrett replied that the fire equipment within the premises had been up-dated, but that she was not sure if CCTV cameras had been installed. Mr Sygrave, representing the Ladder Community Safety Partnership (LCSP), objector, asked Ms Barrett to clarify the hours applied for. Ms Barrett confirmed that although the application form itself stated 03:00 on Friday and Saturday nights, the applicant had amended the hours to Monday to Sunday 08:00 to 02:00.

The Chair invited the objectors to address the Committee. Mr Sharman, an objector resident of Green Lanes, read out the content of the letter of representation re-emphasising that the premises was open on a 24 hour basis and that there was considerable noise nuisance caused by the extractor fan to the rear of the premises. In a brief discussion between the objector and Committee members, it was established that Mr Sharman had been a resident at his property since 1989 and that he had not been consulted by the owner of the premises before the extractor fan was installed. Mr Sharman stated that he had approached the applicant numerous times and on one occasion was pushed out of the premises by the manager.

Mr Mitesh Mashru, an objector of Green Lanes, echoed Mr Sharman's concerns about the application, with particular emphasis on the extractor. He also raised an issue about the smell of cooking that emanates from the premises 24 hours a day. Mr Mashru also stated that there was noise nuisance from slamming doors and live music playing. He claimed that the manager of the premises (also the applicant) was not at all approachable on the occasions that when he had complained about the nuisances. The applicant subsequently denied this claim as well as denying that live music was played, stating that only recorded music was played. The Legal Advisor to the Committee, Maria Bilbao, asked Mr Mashru to clarify the problem of nuisance customers. Mr Mashru replied that there had been a problem in the past but that at present, this was not so much of a problem due to the presence of police in the area. He stated that he could not relate acts of crime to the actual premises. Ms Mashru continued by stating that he had lived in

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this vicinity of the premises for 20 years and had spoken to the applicant on numerous occasions, and reported issues to Haringey Council about dumped rubbish which had not been properly tied up and stored in the alleyway that led to his property. Finally, Mr Mashru confirmed that a reasonable compromise to the application would be a 12midnight closure on weekends, and 02:00 on weekends. This was also agreed with Mr Sharman.

Mr Ian Sygrave addressed the Committee as objector on behalf of the LCSP. He begun by stating that the premises was one of the worse cases of non-compliance in the Green Lanes area and urged the Committee to act decisively on its duty to protect residents in the vicinity of licensed premises against a range of nuisances that can impact on the people living, working or sleeping in the vicinity of the licensed premises. Mr Sygrave confirmed to the Committee that he had personally witnessed the premises open at between 02:00 and 03:00.

The Chair invited the applicant, Mr Kovaycin, to address the Committee. Mr Kovaycin stated that he would comply strictly with the hours he had applied for. He asked the Committee to consider a further amendment to the application in the form of 3-6 month trial period with the new hours in order to prove that he could abide by the rules. Mr Kovaycin apologised for the previous business conduct that had been highlighted to the Committee. He stated that without the longer hours, he could not make enough money to pay for bills, rent, taxes and renovation works to the premises. Cllr Haley asked Mr Kovaycin a number of times what assurances he could give to the Committee to ensure compliance with the law and to any hours that the Committee might be mindful to grant him. Mr Kovaycin gave no response. Cllr Haley then asked the applicant if he possessed a waste license. Mr Kovaycin stated that he did hold a waste license with Haringey Accorde and that refuse from the premises was tied up properly ready for collection every evening. The Chair asked Mr Kovaycin to clarify what time he closed the premises. Mr Kovaycin replied that he opened at 19:00 until 02:00 since a court hearing. The Chair asked Mr Kovaycin a number of questions at this point. He asked who the designated premises supervisor (DPS) was. Mr Kovaycin replied that he and his brother were both DPSs. The Chair asked if refused had been dumped outside the neighbour's door? Mr Kovaycin replied that this had not occurred and that all refuse from the premises was stored on the main road, not the alleyway. The Chair asked Mr Kovaycin if he had pushed Mr Sharman out of the premises. Mr Kovaycin denied this, stating that Mr Sharman had shouted at him. Finally, the Chair asked Mr Kovaycin what hours he would be operate the premises. Mr Kovaycin replied that he would close at 02:00 daily because he did not want to incur anymore fines.

The invited all parties to summarise their views in respect of the application. Ms Barrett added that the applicant's previous licenses had been breached two days after it had been granted. She stated that the premises were a difficult one when it came to enforcement and that she had been pushed out of the premises by Mr Kovaycin in the past.

Mr Sharman concluded that he had been continually ignored by Mr Kovaycin.

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Mr Mashru concluded that he had photo evidence of waste in the alleyway and stated that the premises had no benefit to local residents under the current management.

Mr Sygrave re-iterated that there was evidence that the premises had been operating beyond its permitted hours and that other night cafes in the Green Lanes area had survived by operating until 02:00.

RESOLVED

The Committee decided to refuse the application in full in order to uphold the public nuisance licensing objective.

The reasons for the decision were:-

The Committee heard evidence that there is nuisance from noise and smell which has led to prosecution, and evidence from residents that this nuisance is still taking place.

The Committee heard that there had been a prosecution for breaches of a previous license and there is a pending prosecution for operating the premises without a licence.

The Committee heard that at the Licensing Committee on 31 March 2005, the late night café licence was revoked because the applicant had breached nine enforcement actions; had recently pleaded guilty to a noise abatement order; and because planning permission conditions had also been breached.

The Committee heard that a breach of conditions notice had been served for a breach of a condition on the planning consent and that a prosecution was pending.

On the applicant's own evidence, he indicated that he wanted longer hours for opening and was reminded that he had not applied for those hours. The applicant assured the Committee, having resolved his financial problems, that he was operating the premises between the hours of 19:00 and 02:00 since August 2005 and would continue to do so if the license was granted.

The Committee heard evidence from the Licensing Officer and the interested parties that there had been several breaches by the applicant who should be closing at 23:00 as he has no license and that the premises had been witnessed open after 02:00.

In view of this evidence, the Committee was of the view that the applicant would not comply with any conditions if the application were to be granted with conditions.

LSC30 ALI BABA, 645 GREEN LANES, N4 (Harringay ward): To consider an application for a NEW Premises Licence (Agenda Item 6).

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The Licensing Officer, Daliah Barrett presented the Report for the New Premises License to the Committee highlighting the current position in terms of the operation of the premises. The premises had been the centre of enforcement action. The previous owner of the premises had pleaded guilty to operating without a license and was fined £2500 and that the premises had been found to be open without a license past 23:00 since this fine. Ms Barrett informed the Committee that the representation against the application by the Fire Officer had been withdrawn since the measures required by the Fire Authorities had been implemented. Ms Barrett also notified the Committee of concerns raised by the Planning Officer. There was one letter of objection from an interested party.

The Chair invited questions to the Licensing Officer. Mr Sygrave, representing the Ladder Community Safety Partnership (LCSP), objector, asked Ms Barrett to clarify when the premises had been found to be open beyond 23:00. Ms Barrett replied by listing dates and times of the offending occasions on 20 November 2005 (02:15) and 22nd January 2006 (02:15).

The Chair invited the objector to address the Committee. Mr Sygrave, objector on behalf of the LCSP raised his concerns over the operating schedule that had been submitted as part of the application stating that it did not tackle directly the four objectives of the licensing laws and this raised concerns to him because of the levels of crime and anti-social disorder in the area around the premises. Mr Sygrave asked the applicant to compromise in his application by bringing the closing hours applied for to 12midnight on weekends, and 02:00 on weekends. The Legal Adviser, Maria Bilbao, asked Mr Sygrave if there was any evidence of crime and anti-social behaviour being attributable to the premises. Mr Sygrave replied that there was no evidence.

The Chair invited the applicant, Mr Orhan Kati, to address the Committee. Mr Kati stated that he was new to the business (since 21st October 2005). He informed the Committee that there had been no criminal activity related to his premises and that he supported efforts to prevent it. Mr Kati rejected Mr Sygrave's request for shorter opening hours on the grounds that he had not received any complaints from local residents or other residents' groups. Mr Kati continued by highlighting that a public house was situated next to his premises which operated longer hours. He claimed that there was more likely to be nuisance emanating from this establishment. He also stated that there was no evidence that parking had been a problem attributable to the premises. At the request of the Chair, Mr Kati gave reasons for the two occasions the premises were found to be open beyond its licensed hours. On 20 November 2005, this was four weeks after Mr Kati had taken over the running of the premises , and there had been a mis-communication in respect of the what hours the license permitted the premises to be open, although he was aware that his closing hour should have been 23:00. On 22 January 2006, Mr Kati stated that the premises were not open to the public, but the lights were on and the door open whilst it was being cleaned. Mr Kati claimed that the premises took a long time to clean up after customers had finished eating. The Chair asked Mr Kati what time he stopped serving customers. Mr Kati's reply was that he stopped serving food at 23:00.

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RESOLVED

The Committee decided to grant the application in full and subject to the following conditions:

- (i) Conditions to enforce the operating schedule.

There were two informatives:

- (i) The licence granted would not constitute consent under any other regime. It would be necessary for the licensee to obtain any other consents that may be necessary for the lawful operation of the premises, including planning consent.
- (ii) That there should be a clear and visible “closed” sign after 02:00, with doors closed to any customers.

LSC31 ITEMS OF URGENT BUSINESS (Agenda Item 7).

None

The meeting ended at 23:05

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Councillor JAYANTI PATEL
Chair of Licensing Sub-Committee C

Date.....