

**MINUTES OF THE SPECIAL LICENSING SUB-COMMITTEE A
WEDNESDAY, 16 APRIL 2008**

Councillors Patel (Chair), Demirci and Vanier

MINUTE NO.	SUBJECT/DECISION	ACTION BY
LSCA01.	<p>APOLOGIES FOR ABSENCE</p> <p>There were no apologies for absence.</p>	
LSCA02.	<p>URGENT BUSINESS</p> <p>There were no items of urgent business.</p>	
LSCA03.	<p>DECLARATIONS OF INTEREST</p> <p>None received.</p>	
LSCA04.	<p>SUMMARY OF PROCEDURE</p> <p>Noted.</p>	
LSCA05.	<p>MIZGIN RESTAURANT, 485 GREEN LANES N4 (HARRINGAY WARD)</p> <p>Ms Dale Barrett, the Licensing Officer presented the report and advised the Committee that this was an application for a review of the licence requested on the grounds that the operators were not promoting the statutory objective of preventing crime and disorder.</p> <p>Ms Barrett advised the Committee that the premises had applied for a premises licence in November 2005, to allow late night refreshment between the hours of 23:00 – 2:00am. The application was refused following a hearing. Mr Kovaycin appealed to the Magistrates Court and the licence was granted Sunday to Thursday 23:00 – 00:00 and Friday to Saturday 23:00 – 01:00am.</p> <p>Ms Barrett further informed the Committee that the Enforcement Service had requested the review because of constant breaches of the conditions of the licence by the premise licence holder. The Enforcement service were able to demonstrate that the licence holder had knowingly continued to offer licensable activity beyond the operating hours permitted by the licence.</p> <p>The Committee were also advised told that there had been no comments received from other responsible authorities in respect of the review. A representation had been received from The Ladder Safety Partnership which related to the disregard shown by the licence holder in keeping to the terms of the licence. A local resident was also in attendance at the meeting to give their objections.</p> <p>A local resident addressed the Committee and stated that since the</p>	

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previous hearing in September 2005 which he had given evidence the restaurant had continued to open past the opening hours. The resident informed the Committee that he was aware of this as he lived in the flat above the restaurant. He had padded his flat and wore ear plugs at night in order to sleep and had been doing his for the last four years. He hoped the restaurant would now shut when it was licensed to. The resident further enquired why this restaurant had been allowed to continue to operate outside of the licensable hours for so long.

The Committee questioned the resident on the type of noise which disturbed him and whether other residents were affected. In response the resident replied that the extractor fan was the cause of the noise which faced his bedroom window and the odours emanating from the duct, which should be switched off at night. Other residents were not affected as the duct did not face their properties.

The Licensee's representative stated she was confused by the heading of the review as there was no evidence of crime and disorder and no crimes of violence which was related to the Mizgin restaurant. There were no representations from other responsible authorities. In terms of preventing crime and disorder there was no evidence within the documents which relate to the review on those grounds. The issues raised were of public nuisance. The ventilation of the property was a condition of the licence. The application should be applied for on the correct grounds as breaches of the licence were dealt with under Section 136 of the Act. The licensee had kept to the operating hours and issues of breaches of the licence had been dealt with by the Magistrates Court. It was accepted that breaches of the license in the past had been dealt with. There was no crime and disorder to be dealt with under this application. Public nuisance was an issue and could be mediated.

The Committee queried whether the Enforcement Service should have requested the review under non compliance of the licensing conditions. The legal officer advised the Committee that it was for the applicant to state the grounds for the appeal and for the Committee to decide. The Enforcement Officer informed the Committee that he was under the impression that he could request a review under the prevention of crime and disorder licensing objective.

The licensee's representative interjected and stated that the issues related to the ventilation system and were the main thrust of the complaint. She further stated that ventilation systems caused noise and that the resident bore the brunt of the noise and this was difficult to mitigate. The restaurant had been operating at the licensed hours. Public nuisance was the key issue and on that basis there was an absence of monitoring information for the Committee to consider. There was only one resident affected by the noise from the restaurant.

The local resident questioned the applicant on the ventilation system and stated that it was meant to run during operating hours and be turned off during the night. The applicant responded that they had been shutting at the licensed time. The resident replied that the premises were now

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closing at the operating hours due to the notice being issued however, however the premises had not closed on time since 2003. The resident requested that the ventilation system should be turned off at night.

The Committee enquired of the applicant whether he was complying strictly with the opening hours imposed by the Magistrates Court. The applicant responded that he was. The Committee then queried why it was that enforcement officers had found the premises open and trading outside of the operating hours. In response the applicant advised the Committee that after hours the restaurant was being cleaned which was why the premises were still open and that customers did enter the premises after hours. The Committee further asked whether those customers were served and was advised no.

The Enforcement Officer addressed the Committee and advised that the application review was requested under the crime and disorder objective, to-date the enforcement service had received 7 complaints from local residents. A visit was made on 15 June 2007, and an enforcement officer found the extractor fan in operation. A further visit was made on 9 March 2008 at 3:00am and the premises was in operation in breach of the licensing conditions. There had been 12 offences between March 2006 and February 2008. On 31 December 2007 another prosecution was being sought due to the premises being open outside of the operating hours and the Committee was requested to revoke the licence.

The licensee's representative questioned the enforcement officer and read from page 13, list of offences and stated that on 15 June 2006 there was no mention of the ventilation system being on after hours. The enforcement officer replied that the ventilation system was not operating on the 15 June 2006 however it was on after hours on 19 March 2008.

The Committee questioned the enforcement officer regarding the number of complaints received from local residents, whether officers had visited the complainants and what the complaints were regarding. In response the officer stated that to date 7 complaints had been received (September 2006 and September 2007) regarding noise from the extractor fan. Enforcement Officers had visited the complainant on 3 different occasions.

The local resident summed up and stated that he felt he had made his request clear. The enforcement officer summed up by stating that it was a criminal offence to carry out licensable activities after licensed hours. The licensee had been prosecuted on a number of occasions and continued to disregard the conditions of his licence. The licensee's representative summed up by also stating that she had made herself clear on behalf of the respondent.

RESOLVED

The Licensing Sub Committee (the Committee) decided to uphold the

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review application brought by the Enforcement Service, acting as a responsible authority and agreed to revoke the licence.

In determining the application the Committee considered the steps that it could take in order to promote the licensing objectives. The Committee considered:

1. To take no further action:

The Committee decided that this was not an option as the licensee had breached his licensing conditions on numerous occasions.

2. To issue formal warnings to the premises supervisor and/or premises licence holder:

The Committee decided this was not an option as the licensee had been successfully prosecuted on a number of occasions and had continued to offend. It was felt that another warning would also be disregarded.

3. Modify the conditions of the licence:

The Committee was satisfied that on the basis of the evidence presented including details of prosecutions for non compliance with conditions on the licence that any modification of conditions would not be complied with.

4. Exclude a licensable activity from the scope of the licence:

There was only one licensable activity so in effect it would indirectly revoke the licence.

5. Remove the designated premises supervisor:

Removal of the designated premises supervisor would not have brought about a change in the overall management of the premises.

6. Suspend the licence for a period not exceeding three months:

If the licence was suspended for the maximum period of three months the Committee felt that there would be no change in the way the premises were managed because of the long history of blatant disregard of the licence conditions imposed by the Magistrates Court and despite five successful prosecutions which had resulted in fines exceeding £16,000. The licensee still continued to breach conditions as recently as 9 March 2008.

7. The Committee decided it was reasonable and proportionate to revoke the licence. The reasons for revocation were:

Despite the Court's decision dated 19 September 2006 noting that they had considered refusing the grant of the licence. The Court decided that they were prepared to grant the licence subject to limited conditions. These conditions had not been adhered or complied with and had

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	<p>resulted in a successful prosecution and another prosecution pending.</p> <p>The Committee also took into account the oral and written evidence of breaches of the licensing conditions subsequent to the Magistrates Court hearing on:</p> <ul style="list-style-type: none"> • 24 December 2006 • 13 January 2007 • 20 January 2007 • 31 December 2007 • 9 March 2008 <p>These offences viewed in light of a long history of licensing offences led the Committee to believe that none of the options other than revocation would achieve the promotion of the licensing objectives.</p> <p>In reaching this decision the Committee took into account the human rights of the licensee, the local resident, the protection of family and private life.</p> <p>The Committee was also aware of the importance of the licensing trade to the local economy and to the culture and leisure aspirations.</p>	
<p>LSCA06.</p>	<p>ISTANBUL RESTAURANT, 441 GREEN LANES N4 (HARRINGAY WARD)</p> <p>This item was adjourned to a future meeting of the Licensing Sub Committee.</p> <p style="text-align: center;">The meeting concluded at 10:30pm</p>	

Cllr Jayanti Patel.....
Chair

Cllr Ali Demirci.....
Committee Member

Cllr Bernice Vanier.....
Committee Member