

Minutes

LICENSING SUB-COMMITTEE

15 October 2019

Meeting held at Committee Room 5 - Civic Centre, High Street,
Uxbridge



	<p>Committee Members Present: Councillors Roy Chamdal Teji Barnes Janet Gardner</p> <p>Witnesses Present: David Holmes, Anti-Social Behaviour and Environment Officer</p> <p>LBH Officers Present: Steven Dormer, Licensing Officer Chantelle McLeod, Legal Advisor Luke Taylor, Democratic Services Officer</p> <p>Also Present: Mr Emrah Gencer, Applicant Mr Mirkan Senpalit, Assistant to Applicant</p>
32.	<p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>There were no apologies for absence.</p>
33.	<p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>There were no declarations of interest.</p>
34.	<p>TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND ITEMS MARKED PART II WILL BE CONSIDERED IN PRIVATE (<i>Agenda Item 3</i>)</p> <p>It was agreed that all items were marked Part I and would therefore be considered in public.</p>
35.	<p>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT (<i>Agenda Item 4</i>)</p> <p>None.</p>
36.	<p>APPLICATION FOR A NEW STREET TRADING LICENCE - EMPORIUM FOOD CENTRE, 9-15 STATION ROAD, WEST DRAYTON, UB7 7BT (<i>Agenda Item 5</i>)</p> <p>Introduction by the Licensing Officer:</p> <p>Mr Steve Dormer, Licensing Officer at the London Borough of Hillingdon, introduced the report relating to an application for a one-metre Temporary Street Trading Shop</p>

Front Licence for 12 months at Emporium food Centre, 9-15 Station Road, West Drayton, UB7 7BT, from the applicant, Mr Emrah Gencer, and assistant, Mirkan Senpalit.

The Sub-Committee was informed that the application sought to display fruit and vegetable produce up to one metre to the front of the property, but local residents had contacted Ward Councillors to raise concerns about the premises, regarding unlicensed street trading, stock laying on pavement when deliveries were made to the premises and poor waste management arrangements.

A first premises visit by Mr Dormer noted that fire exits and gangways inside the building were blocked, there was a lack of suitable waste receptacles, and waste was being disposed of inadequately, as disposing them to the rear of Drayton Tandoori was not acceptable.

Mr Dormer commented that two penalty notices had previously been issued to the premises, and on a second visit to Emporium Food Centre, the premises was considered to be much tidier to the rear, but trading was still taking place despite no licence being issued.

Representation by the Applicant:

Mr Senpalit stated that Drayton Tandoori gave Emporium Food Centre permission to use the back of the shop to store rubbish, and this area was now tidy, as the bins that were used were now in the nearby car park.

The Sub-Committee were informed that Mr Gencer's landlord told the applicant that they could trade up to one metre outside the shop, and that the applicant was unaware they required a licence and could not trade, however, by this point the fruit and vegetables were now outside and it was not possible to store the goods within the store and continue to operate as a store.

Responding to the Chairman's questioning, the applicants confirmed that without a licence the business closed, and the fruit and vegetables were always outside the premises, both before and after the application for a street trading licence on 28 August 2019.

Representation by Interested Parties:

David Holmes, Anti-Social Behaviour and Environment Officer, stated that on a premises visit on 13 September 2019 the applicant was unable to provide the required documentation for street trading, but there were displays outside the premises that were obstructing the highway, there was waste on the road itself, and some waste was disposed in public bins, while other waste was stored behind Drayton Tandoori.

The Sub-Committee was informed that waste both inside and outside the premises were blocking the edge of fire exits, and while this had been tidied by the time a second visit took place, there was no way to leave the property at the rear of the building due to fencing, and the shop employed 15 employees.

Responding to questioning from Members, Mr Holmes confirmed that he had not seen a trade waste agreement, and that the fruit and vegetable outside the store was exceeding one metre on the public highway.

The Discussion

The Chairman stated that the application for a street trading licence was up to one metre, but in the application, it stated that the street trading would take place to a distance of 1.5m outside the premises. Responding to this questioning, the applicants stated that the pitch would be 1.5m.

Responding to questioning from the Sub-Committee, the applicants also noted that there was parking available for stock deliveries, and waste used to be collected two times a week on Wednesday and Saturdays. The Sub-Committee heard that the applicants were not aware this would be an issue as they had never applied for a licence before. Mr Gencer also noted that six times a week he would take waste in his own van to dispose of it where he lived, and there were now no boxes or waste at the back of the shop, and that recycling now takes place as well.

The applicant confirmed that there was now a waste contract in place, and that there is documentation to prove this, and that two penalty notices issued on 16 August and 13 September 2019 for street trading had been paid. The applicant stated that they did not know they required a licence to street trading.

The Chairman asked what the applicants were told when they were issued with the penalty notices, and the applicants confirmed that they were told they were not allowed to have fruit and vegetables outside if they did not have a licence.

Responding to questioning from the Sub-Committee, Mr Senpalit commented that the business had employed a further person on a full-time contract to keep the street clean. Councillors asked why the applicants continued to display the fruit and vegetables on the street when they were told they were not allowed to, and Mr Senpalit stated that the business would not be able to operate without the fruit and vegetables, and they did not have an option but to continue to store the goods on the street as there was not enough place to store it within the premises. Responding to the Chairman, Mr Senpalit confirmed that the applicants knew they should not have the goods store on the street but did so anyway.

The applicants noted that they applied for a one metre pitch as they applied for a street trading licence online and were only able to choose one metre or two metres, despite wanting a licence for a 1.5m pitch.

Mr Gencer and Mr Senpalit commented that they would not be able to afford to run the business if they were not granted a licence, and did not want it to look like they were not obeying the rules as it was not meant in that manner; the goods were only outside because they could not be stored inside. The applicants also noted that if they had known they needed a street trading licence, they would have applied for it earlier.

Closing Remarks:

Mr Holmes stated that the applicant must show they have documentation, such as waste disposal papers, but also needed to prove they were responsible and ensure health and safety regulations were followed and that they ceased to obstruct the public footpath outside the premises.

The applicant noted that they had waste agreements in place which had been agreed and seen by someone at the Council, and that fire exits had been checked by the fire department, while they were told that a second exit and the entrance to the store could be used as fire exits.

Committee Deliberation

All parties were asked to leave the room while the Sub-Committee considered its decision.

All parties were invited back into the room for the Chairman to announce the decision of the Sub-Committee.

The Decision

The Sub-Committee has considered all the relevant representations made available to it and in doing so has taken into account the London Local Authorities Act 1990 and the Council's Street Trading Policy. The Sub-Committee has paid particular attention to paragraphs 3.2, 9.1, 10.5 and 10.7 of the Street Trading Policy. The Licensing Sub-Committee has determined that it is necessary and proportionate to refuse a temporary Street Trading Shop Front Licence for Emporium Food Centre, 9-15 Station Road, West Drayton, UB7 7BT.

Reasons for Decision:

1. The applicant's repeated failure to trade without a valid street trading licence as demonstrated by two previous fixed penalty notices served on him leads the Sub-Committee to conclude that the applicant is unsuitable to hold a street trading licence pursuant to paragraphs 3.2, 9.1 and 10.5 (b) of the Council's Street Trading Policy. The relevant paragraphs in the Street Trading Policy are as follows:
 - a. Paragraph 3.2 allows the Council to assess the suitability of the applicant on a case-by-case basis and may have regard to any relevant enforcement history concerning the applicant.
 - b. Paragraph 9.1 states that where the Council receives an objection to an application, it will carefully consider whether that objection may influence the Council's discretionary decision making powers.
 - c. Paragraph 10.5 (b) sets out the discretionary ground for refusal being that the applicant is unsuitable to hold a licence.
2. The Sub-Committee noted that the applicant could not provide an explanation for the non-compliances other than the necessity to continue trading. The Sub-Committee were of the view that this flagrant disregard of the law demonstrates that the applicant is unsuitable to hold a licence.
3. The Sub-Committee were also concerned by the potential risk to the public with regard to suitable fire exits being blocked and the lack of a fire inspection certificate which does not accord with the public safety objective as set out in paragraph 10.7 (a) of the Street Trading Policy.

Right of Appeal

Any person aggrieved by the council's decision to refuse or revoke a temporary street trading licence does not have an automatic right of appeal, however, may instead apply for judicial review of such a decision.

You will be deemed to have received this decision letter, two days after the date on the accompanying letter, which will be posted by 1st class mail.

	The meeting, which commenced at 10.00 am, closed at 10.48 am.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Luke Taylor on 01895 250 693. Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

The public part of this meeting was filmed live on the Council's YouTube Channel to increase transparency in decision-making, however these minutes remain the official and definitive record of proceedings.