

MEETING

LICENSING SUB-COMMITTEE

DATE AND TIME

MONDAY 18TH AUGUST, 2014

AT 12.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, NW4 4BG

TO: MEMBERS OF LICENSING SUB-COMMITTEE (Quorum 3)

Councillors

Maureen Braun

Claire Farrier

Jim Tierney

Substitute Members

All Members

You are requested to attend the above meeting for which an agenda is attached.

Andrew Nathan – Head of Governance

Governance Services contact: Governance Service governance.service@barnet.gov.uk

Media Relations contact: Sue Cocker 020 8359 7039

ASSURANCE GROUP

ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Appointment of Chairman	
2.	Absence of Members (If any)	
3.	Declaration of Members' Disclosable Pecuniary interests and Non Pecuniary interests (If any)	
4.	Licensing Sub-Committee Hearing Procedure	1 - 4
5.	Transfer Application for Barnet Star, 121 East Barnet Road, East Barnet, EN4 8RF	5 - 26
6.	Motion to exclude the Press and Public	
7.	Deliberation by the Sub-Committee in Private Session	
8.	Re-admission of the Press and Public: Announcement of the decision of the Sub-Committee	
9.	Any other Item(s) the Chairman decides are urgent	

FACILITIES FOR PEOPLE WITH DISABILITIES

Hendon Town Hall has access for wheelchair users including lifts and toilets. If you wish to let us know in advance that you will be attending the meeting, please telephone Governance Service governance.service@barnet.gov.uk. People with hearing difficulties who have a text phone, may telephone our minicom number on 020 8203 8942. All of our Committee Rooms also have induction loops.

FIRE/EMERGENCY EVACUATION PROCEDURE

If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by Committee staff or by uniformed custodians. It is vital you follow their instructions.

You should proceed calmly; do not run and do not use the lifts.

Do not stop to collect personal belongings

Once you are outside, please do not wait immediately next to the building, but move some

distance away and await further instructions.

Do not re-enter the building until told to do so.

This page is intentionally left blank

LONDON BOROUGH OF BARNET

LICENSING SUB COMMITTEE

HEARINGS PROCEDURE

AGENDA ITEM 4

General points

The following procedure is based on Regulations made by the Secretary of State under the Licensing Act 2003 (“the Hearings Regulations”) which may be viewed or downloaded from the website of the Department for Culture, Media and Sport by following links from www.culture.gov.uk

The procedure is intended as a general framework to ensure natural justice and a fair hearing. The conduct of individual hearings may vary slightly according to circumstances and the discretion of the Chairman. In all cases, however, this general framework will be followed.

The procedure allows each party a maximum period of 5 minutes in which to present their case (Regulations 16 & 24). At the end of the time allowed, the Chairman will terminate the presentation and the hearing will proceed in the form of a discussion led by the authority to explore points of dispute. The discussion will not be timed.

The procedure is subject to periodic review and amendment to reflect best practice and relevant legislative changes. An updated version of this procedure is published as soon as possible following any such amendments.

Chairman

- Introduces him/herself and Members of the Committee, and outlines their roles.
- Introduces Licensing, Legal and Governance Officer.
- Explains that Legal and Governance Officers will be present during the Committee’s deliberations to advise only, and that the Licensing Officer will be excluded from deliberations.
- Asks parties present to introduce themselves.
- Outlines procedure to be followed (Regulation 22).
- Asks all parties to confirm their understanding of the procedure.
- Clarifies any aspect(s) of the procedure where any parties are uncertain or asks Legal or Governance Officer as appropriate to clarify.

Governance Officer

- Informs Committee of absent parties.
- Details persons whom a party is seeking permission to represent them at hearing.
- Panel confer regarding permission.
- Chairman announces decision regarding permission.

Licensing Officer presents the report to the Committee

- Is a statement of the facts including details of the application and operating schedule, relevant policy details, detail representations made, a chronology of events and highlights the points on which the Authority requires clarification.

Applicant

- Presents opening submissions and clarifies points raised by Authority in notice of hearing. Time allowed 5 mins.

Other parties

- Presents opening submissions either in person or by spokes person
Time allowed 5 mins per interested party.

Note regarding use of video evidence

Video evidence must be in DVD format and will form part of the relevant party's five minutes opening submission. Any party wishing to use video evidence must submit a copy to the Authority along with sufficient, identical extra copies to serve on all the opposing parties – i.e. if the applicant is submitting it, there must be enough copies for all parties making representations and if a party making representations is submitting it there must be a copy for the applicant. The recording must be edited down to the highlights, containing only relevant matter which relates to the written representation previously submitted. In addition, a description of how, when and where the video was recorded and what it contains must be submitted. These must be supplied to the Authority at least five working days before the hearing.

Members question Licensing Officer on Policy

Discussion

Chairman leads a discussion concentrating on points of dispute:

Chairman asks Applicant what he disputes in other parties' submissions, and asks other parties to comment.

Chairman proceeds through all objectors dealing with all matters of contention.

When Chairman feels all matters have been thoroughly discussed and all parties have been given a fair and equal opportunity to comment and make representations, she/he closes discussion.

Determination

There are two procedures depending on whether or not determination is to be made at the end of the Hearing or within five working days of the Hearing. This later announcement of determination is permitted in terms of the Legislation for certain types of applications.

Chairman informs all present that the Committee will deliberate, that Legal and Governance Officer will remain to advise but will not be part of decision-making process, and that all others must leave (under Regulation 14).

- Parties, apart from Legal and Governance Officer, leave the room.
- The Committee deliberates, with advice as required from Legal and Governance Officer, and reaches a conclusion. The Legal officer may assist, as required, in formulating the wording of the determination.

- Parties return.
- Chairman reads out determination, and advises it will be sent in writing to all parties.
- Opportunity for determination to be clarified by any interested party who is unclear.
- Chairman gives advice about appealing against the determination.
- Chairman thanks all for attending and closes the meeting.

...Within five working days of the hearing

- Chairman explains requirement to determine the Hearing within five working days, and advises that the Committee will proceed to deliberate and announce the determination within that time.
- During deliberations, Legal and Governance Officers remain to advise on law and procedure as required. The Legal Officer may assist, as required, in formulating the wording of the determination. The Licensing Officer plays no part in the determination and withdraws for this part of the proceedings.
- Chairman advises all parties that they will receive written notification of the determination within five working days of the Hearing date, together with general information on how to appeal against the determination.
- Chairman thanks all parties for attending and invites the applicant, objector(s), other party(ies) and the Licensing Officer to leave.

Information on Appealing against the decision

You may at any time before the expiration of a period of 21 days from notification appeal to Willesden Magistrates' Court, 448 High Road London England NW10 2DZ (Telephone 020 8955 0555, DX 110850 Willesden 2) by way of Complaint for an Order. The Court may either dismiss the appeal, substitute for the decision appealed against any other decision which could have been made by the Licensing Authority or remit the case to the Licensing Authority to dispose of it in accordance with the directions of the court, and can make such order as to costs as it thinks fit.

This page is intentionally left blank

AGENDA ITEM 5



Licenisng Sub-Committee
Monday 18th August 2014

Title	Transfer Application for Barnet Star, 121 East Barnet Road, East Barnet, EN4 8RF
Report of	Trading Standards & Licensing
Wards	East Barnet
Status	Public
Enclosures	Report of the Licensing Officer Annex 1 – Transfer Application Form Annex 2 – Police Representation Annex 3 – Matters For Decision Annex 4 – Current Premises Licence
Officer Contact Details	Jack Dowler 020 8359 7575 jack.dowler@barnet.gov.uk

Summary

This report asks the Sub-Committee to consider the application for the Transfer of a Premises Licence, under section 42 of the Licensing Act 2003.

Recommendations

- 1. That the Sub-Committee considers the application for a transfer of a premises licence for Barnet Star, 121 East Barnet Road, East Barnet, EN4 8RF**

1. WHY THIS REPORT IS NEEDED

- 1.1 The licensing authority having received a valid objection from the police and must hold a hearing to consider the objection.

2. REASONS FOR RECOMMENDATIONS

- 2.1 Where a notice of representation is given under section 42(6) of the Licensing Act 2003 (and not withdrawn), the authority must hold a hearing to consider it, unless the authority, the applicant and the chief officer of police who gave the notice agree that a hearing is unnecessary.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Not applicable

4. POST DECISION IMPLEMENTATION

- 4.1 The decision will have immediate effect

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Council's Licensing Policy

- 5.1.2 None

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 None

5.3 Legal and Constitutional References

- 5.3.1 Valid representations have been received to the application, which is therefore before the Sub-Committee for consideration.

- 5.3.2 The Licensing Sub-Committee will discharge the functions under the Licensing Act 2003 and associated Regulations, as delegated to it by the Licensing Committee

5.4 Risk Management

- 5.4.1 Not Applicable

5.5 Equalities and Diversity

5.5.1 Licence applications/notices are dealt with according to the provisions of the Licensing Act 2003 and associated Regulations which allow both applications and representations to applications to be made by all sectors of the community

5.6 Consultation and Engagement

5.6.1 Not applicable

6. BACKGROUND PAPERS

6.1 The Transfer Application, the Licensing Officers report, the Police objection and the existing premises licence are attached to this report.

Officers Report

LICENSING ACT 2003

Licensing officer's report

Transfer Application

Barnet Star 121 East Barnet Road, EN4 8RF

The Application

This application seeks to transfer the premises licence under section 42 of the Licensing Act 2003 from Mr Giyasettin Top to Mr Erol Mutlu of 121 East Barnet Road, EN4 8RF.

A copy of the Transfer Application can be found in Annex 1 attached to this report.

Objection

The police having been provided with a copy of the application have provided the Licensing Authority with their objection. This was received by the licensing authority on Monday 21st July 2014.

The Police have stated that during their suitability interview, the applicant stated to police that he worked at the venue, but that he had nothing to do with running of the venue.

As a result the Police have objections to this application as the proposed licence holder will not be any position to perform the role, and that he is being used as a front by the original applicant in order to get a premises licence for the venue.

A copy of the Police Objection can be found attached to this report in Annex 2.

Officer Comments - Statutory Guidance

8.92 The 2003 Act provides for any person who may apply for a premises licence, which includes a business, to apply for a premises licence to be transferred to them. Where the application is made in writing, the applicant must give notice of the application to the chief officer of police. Where it is made electronically via GOV.UK or the licensing authority's electronic facility, the licensing authority must notify the police no later than the first working day after the application is given. However, the responsibility to notify the DPS remains with the applicant. Otherwise the general guidance on electronic applications set out in paragraphs 8.21 to 8.28 applies.

- 8.93 In the vast majority of cases, it is expected that a transfer will be a very simple administrative process. Section 43 of the 2003 Act provides a mechanism which allows the transfer to come into immediate interim effect as soon as the licensing authority receives it, until it is formally determined or withdrawn. This is to ensure that there should be no interruption to normal business at the premises. If the police raise no objection about the application, the licensing authority must transfer the licence in accordance with the application, amend the licence accordingly and return it to the new holder.
- 8.94 In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. Such objections are expected to be rare and arise because the police have evidence that the business or individuals seeking to hold the licence or business or individuals linked to such persons are involved in crime (or disorder).
- 8.95 Such objections (and therefore such hearings) should only arise in truly exceptional circumstances. If the licensing authority believes that the police are using this mechanism to vet transfer applicants routinely and to seek hearings as a fishing expedition to inquire into applicants' backgrounds, it is expected that it would raise the matter immediately with the chief officer of police.

Jack Dowler
Trading Standards and Licensing Technical Officer

Wednesday, 23 July 2014

Annex 1 – Transfer Application
Annex 2 – Police Objection
Annex 3 – Matters for Decision
Annex 4 – Current Premises Licence

TRANSFER APPLICATION

**Application to transfer premises licence to be granted
under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We MR EROL MUTLU

(Insert name of applicant)

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

LN/199905628

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description

BARNET STAR
121 EAST BARNET ROAD
BARNET

Post town LONDON

Post code EN4 8RF

Telephone number at premises (if any)

Please give a brief description of the premises

A KEBAB SHOP PREMISES WITH PERMANENT POSITION SITUATED ON THE MAIN ROAD.

Name of current premises licence holder

GIYASETTIN TOP

Part 2 - Applicant details

In what capacity are you applying for the premises licence to be transferred to you?

- | | Please tick yes |
|---|---|
| a) an individual or individuals* | <input checked="" type="checkbox"/> please complete section (A) |
| b) a person other than an individual * | |
| i. as a limited company | <input type="checkbox"/> please complete section (B) |
| ii. as a partnership | <input type="checkbox"/> please complete section (B) |
| iii. as an unincorporated association or | <input type="checkbox"/> please complete section (B) |
| iv. other (for example a statutory corporation) | <input type="checkbox"/> please complete section (B) |
| c) a recognised club | <input type="checkbox"/> please complete section (B) |

- d) a charity please complete section (B)
- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

*If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
 - statutory function or
 - a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname **First names**

Please tick yes

I am 18 years old or over

Current postal address if different from premises address

Post town **Post code**

Daytime contact telephone number

E-mail address (optional)

SECOND INDIVIDUAL APPLICANT (fill in as applicable)

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname First names

I am 18 years old or over Please tick yes

Current postal address if different from premises address

Post town Post code

Daytime contact telephone number

E-mail address (optional)

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example partnership, company, unincorporated association etc)
Telephone number (if any)
E-mail address (optional)

Part 3

Please tick yes

Are you the holder of the premises licence under an interim authority notice?

Do you wish the transfer to have immediate effect?

If not when would you like the transfer to take effect?

Day Month Year

--	--	--	--	--	--	--	--

Please tick yes

I have enclosed the consent form signed by the existing premises licence holder

If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?

Please tick yes

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003)

Please tick yes

I have enclosed the premises licence

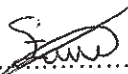
If you have not enclosed premises licence referred to above please give the reasons why not.

- I have made or enclosed payment of the fee
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed
- I have enclosed the premises licence or relevant part of it or explanation
- I have sent a copy of this application to the chief officer of police today
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE , UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 4 – Signatures (please read guidance note 2)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 3). **If signing on behalf of the applicant please state in what capacity.**

Signature 

Date 10/07/2014

Capacity MANAGER

For joint applicants signature of 2nd applicant, 2nd applicant’s solicitor or other authorised agent (please read guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

Date

Capacity

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	

Notes for Guidance

1. Describe the premises. For example the type of premises it is, its general situation and layout and any other information which would be relevant to the licensing objectives.
2. The application form must be signed.
3. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
4. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
5. This is the address which we shall use to correspond with you about this application.

Consent of premises licence holder to transfer

I/we MR GIYASETTIN TOP

[full name of premises licence holder(s)]

the premises licence holder of premises licence number LN/199905628

[insert premises licence number]

relating to

BARNET STAR
121 EAST BARNET ROAD
BARNET
EN4 8RF

[name and address of premises to which the application relates]

hereby give my consent for the transfer of premises licence number

LN/199905628

[insert premises licence number]

to

EROL MUTLU
MR ~~SULEYMAN TEKAGAG~~

[full name of transferee].

signed

name

(please print)

MR GIYASETTIN TOP

dated

re dated: 10/07/2014
10/07/2014

POLICE OBJECTION

With compliments

London Borough of Barnet
Licensing Team
Building 4
North London Business Park
Oakleigh Road South
London
N11 1NP

COLINDALE POLICE STATION
GRAEME PARK WAY
LONDON NW7 5TW

Telephone: 020 87335273
e-mail: [SX_Licensing@met.police.uk](mailto: SX_Licensing@met.police.uk)
Date: 08th July 2014

L.B.B. ref:
Our ref: SX01/297/2014

Police Make Representations to the following application made under
Sect 42 of the Licensing Act 2003

Application Given To Police On: 10th July 2014

Premises: **Barnet Star, 121 East Barnet Road, Barnet, EN4 8RF**

Representations:

On the 16th July 2014 police held a suitability interview with the proposed licence holder on the application. The applicant stated to police that he worked at the venue, but that he had nothing to do with running of the venue. He stated that he had been asked to say he would be in charge of the venue by the original applicant, who police have already stated that they have objections too. The new applicant stated that he was planning to go to university in two weeks in Exeter and as such would not be at the venue from that point on.

Police will therefore have objections to this application as the proposed licence holder will not be any position to perform the role, and that he is being used as a front by the original applicant in order to get a premises licence for the venue.

Yours Sincerely,

Police Constable Carl Mercer 565SX

MATTERS FOR DECISION

PREMISES LICENCE

<p>Licensing Act 2003</p> <p>Part A:</p> <p>Premises Licence</p> <p>Premises Licence Number: LN/199905628</p>	<p>Licensing Authority: London Borough of Barnet, Building 4, North London Business Park Oakleigh Road South New Southgate, London, N11 1NP</p> <p style="text-align: right;">LPRL/08/12423 (27/06/2013)</p>
--	---

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description
Barnet Star, 121 East Barnet Road

<p>Post Town Barnet</p>	<p>Post code EN4 8RF</p>
------------------------------------	-------------------------------------

Telephone number
020 8440 3215

Where the licence is time limited the dates
This premises licence is not time limited

Licensable activities authorised by the licence
The Provision of Late Night Refreshment

The times the licence authorises the carrying out of licensable activities
The Provision of late night refreshment - Indoors only

Standard Days and Timings:

Sunday to Thursday	23:00hrs - 00:00hrs
Friday to Saturday	23:00hrs - 01:00hrs

The hours that the premises are open to the public
Not Restricted

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies
N/A

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Mr Giyasettin Top
50 Daleview Road
London
N15 6PJ

Registered number of holder, for example company number, charity number (where applicable)

N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

N/A

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

N/A

Annex 1 - Mandatory Conditions

N/A

Annex 2 – Conditions consistent with the operating schedule

- 1 The Licensee shall ensure that the use of the premises shall not cause a nuisance to nearby residents.
- 2 The total number of persons accommodated at any one time in the premises shall not exceed 10.
- 3 The premises may remain open for the purposes of the licence from 2300 hours to 0100 hours of the morning following Fridays and Saturdays.
- 4 The premises may remain open for the purposes of the licence until Midnight on Sundays to Thursdays inclusive.

Annex 3 – Conditions attached after hearing by the licensing authority

N/A

Annex 4 - Plan

As submitted to the Council with the application for the grant of a premises licence under schedule 8 of the Licensing Act 2003. Reference: LPRL/08/12423

121. East Barnet Road
EN4 8RF

