Title: Way 2 Save, 147 Ripple Road, Barking, IG11 7PW – Application to Vary the Premises Licence

Report of the Director, Law and Governance

Open Report

Wards Affected: Gascoigne

Key Decision: No

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Summary

An application for the variation of the premises licence held by Mr. Murat Alma in respect of Way 2 Save, 147 Ripple Road Barking has been made.

Representations against the application have been received from three ward Councillors, the Metropolitan Police and the Licensing Authority, under the grounds of the prevention of crime and disorder and public nuisance.

The matter is being put to the Licensing Sub-Committee for determination at a public hearing.

Recommendation

That the Sub-Committee considers the content of this report and appendices, together with any oral submissions given at the hearing, and determines the application.

Reason(s)

Under the Licensing Act 2003 the Council, as Licensing Authority for the area, has a duty to consider and determine each valid application submitted.

1. Introduction and Background

1.1 The Licensing Act 2003 (the “Act”) established the national licensing regime for:

- The sale and supply of alcohol
- Regulated entertainment
- Late night refreshment
1.2 Under the Act, any person wishing to use any premises to provide one or more of the above licensable activities must firstly obtain a premises licence from the local licensing authority for the area. If the licence is intended to include the sale and supply of alcohol, then the licence must name a ‘Designated Premises Supervisor’ (DPS) who holds a personal licence issued by the local licensing authority for the area within which they live.

1.3 Applications for premises licences are made subject to public consultation. During the consultation period, it is open to any ‘responsible authority’ or ‘other person’ to make representations concerning the application. Representations must relate to one or more of the four licensing objectives. These are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

1.4 Where representations are received, and these are neither conciliated or withdrawn, then the local licensing authority must hold a public hearing to determine the matter.

2. Proposals and Issues

2.1 The Application under Consideration

2.1.1 On the 9th October 2018 an application for a variation of a premises licence was received from Mr. Murat Alma. The application is in respect of Way 2 Save, 147 Ripple Road Barking IG11 7PW. A copy of the application is attached at Appendix A.

2.1.2 The application is to vary the hours for the sale of alcohol for consumption off the premises to 07:00 to 02:00 daily with the premises open for the same hours.

2.1.3 The current licence permits the following licensable activities and hours:

**Supply of alcohol (on the premises only)**

- 09:00 to 23:00 daily.

**The opening hours of the premises**

- 07:00 to 00:00 daily.

A copy of the current licence is attached as Appendix B

2.1.4 The Designated Premises Supervisor at the time of the application was Mr. Murat Alma, this was varied on 15th October 2018 to Mr. Can Alma.
2.2 **Representations**

2.2.1 Five representations against this application have been received, they are from the three local ward Councillors, the Metropolitan Police and the Licensing Authority. The grounds of objection are the licensing objectives of the prevention of crime and disorder, and the prevention of public nuisance. Copies of the Councillor representations are attached as [Appendices C, D and E](#) to this report. The Police representation is [Appendix F](#) and the Licensing Authority representation is [Appendix G](#). Since the initial representations were made both the Police and the Licensing Authority have made further representations adding to their original one. These are attached as [Appendices L and M](#) respectively.

2.3 **The Premises Operating History**

2.3.1 June 2015 - variation application made to sell alcohol between 07:00 & 01:00 Sunday to Thursday and 07:00 to 02:00 Friday to Saturday. The premises to be open 24 hours. This application went to a hearing of the Licensing Sub-Committee and was granted with conditions.

2.3.2 January 2016 - the licence was transferred to the current licence holder, Mr Murat ALMA, who also became the DPS.

2.3.3 December 2016 - Variation submitted to allow the premises to sell alcohol 24 hours a day. For this application Mr ALMA offered no extra conditions on his application. The application went before the Licensing Sub-Committee in February 2017 who granted the application with extra conditions as requested by the Police, one condition was that there should be an SIA door supervisor employed between the hours of Midnight – 06:00 each day. The minutes of this meeting show that Mr ALMA agreed to the conditions requested by the Police before the hearing, and that he had also voluntarily reduced his hours for the sale of alcohol to midnight in July 2016 for a period because of antisocial behaviour in the area. A copy of these minutes is attached as [Appendix H](#).

2.3.4 June 2017 – Licensing inspection revealed non-compliance with conditions on the licence, involving sales of single cans/bottles and quality of training and training records. Warning letter sent, copy at [Appendix I](#)

2.3.5 December 2017 – Police issue a Certificate under S.53(1)(b) of the Licensing Act 2003 to the effect that they believe the premises are associated with serious crime and disorder, following two incidents, one on November 2017 that involved members of staff from the shop and one in December 2017. Both incidents were in the early hours of the morning when a door supervisor should have been present. The Licensing Sub-Committee subsequently suspended the premises licence as an interim step pending the full review hearing.

2.3.6 January 2018 – Full review hearing held, Police agree additional conditions with Mr ALMA and a reduction of hours to those on the current licence (sale of alcohol 07:00 – 23:00). A copy of the minutes of this meeting is attached as [Appendix J](#).

2.3.7 On Wednesday 7th November PC Sears attended the premises at 23:02. During his inspection he found that 10 of the 23 licence conditions were being breached. His further representation is attached as [Appendix L](#).
2.4 Local Area

2.4.1 A map of the local area is attached as Appendix K. The location of the application premises is marked on the map.

3. Options Appraisal

3.1 The Sub-Committee is advised that the hearing is of a quasi-judicial nature and representations from all parties, both written and verbal, will form part of the matters that are to be considered.

3.2 The Sub-Committee is required to consider each application on its own individual merits with all relevant matters taken into account. Findings on issues of fact should be on the balance of probability.

3.3 Having considered the application, the representations and all relevant submissions, the Sub-Committee must decide what action is appropriate to promote the licensing objectives. In doing so the Sub-Committee may decide either to grant, part-grant or refuse the application.

3.4 In reaching its decision, the Sub-Committee must have regard to:
   - The Act
   - Secondary regulations
   - The Guidance issued to Local Licensing Authorities by the Home Office (current version April 2018)

3.5 If any party is aggrieved by the decision of the Sub-Committee, they have the right to appeal the decision to the Magistrates Court. Appeals may be made within 21 days of notification of the Sub-Committee’s decision.

4. Consultation

4.1 The application has been subject of public consultation in accordance with the statutory provisions. The application has been advertised by way of public notices placed in a local newspaper and displayed at the premises and notifications have been provided to all responsible authorities and ward councillors.

5. Legal Implications

Implications completed by: Simon Scrowther, Litigation Lawyer, Corporate Legal

5.1 The London Borough of Barking and Dagenham, as Licensing Authority under the Licensing Act 2003 and subordinate legislation, is empowered to determine applications of this nature.

5.2 Notice must be given of the Licensing Authority’s decision on this matter.

Public Background Used in the Preparation of the Report: None
List of appendices:

- Appendix A - Copy of the application
- Appendix B - Copy of the current licence
- Appendix C - Councillor Ashraf representation
- Appendix D - Councillor Aziz representation
- Appendix E - Councillor Twomey representation
- Appendix F - Metropolitan Police representation.
- Appendix G - Licensing Authority representation
- Appendix H - Licensing Sub-Committee minutes Feb 2017
- Appendix I - Warning letter following inspection
- Appendix J - Licensing Sub-Committee minutes January 2018
- Appendix K - Map of local area
- Appendix L – Additional Police representation
- Appendix M – Additional Licensing Authority representation