

LICENSING SUB-COMMITTEE

Tuesday 7 January 2020

Title: Licensing Act 2003 – Way 2 Save 147 Ripple Road Barking, IG11 7PW – Variation of a Premises Licence	
Report of the Director, Law and Governance	
Open Report	For Decision
Wards Affected: Gascoigne	Key Decision: No
Report Author: Theo Lamptey – Service Manager Regulatory Services	Contact Details: Tel: 020 8227 5655 E-mail: Theo.lamptey@lbbd.gov.uk
Accountable Director: Andy Opie, Operational Director, Enforcement Services	
Accountable Strategic Director: Fiona Taylor, Director, Law and Governance	
Summary An application for the Variation of a Premises Licence held by Mr. Murat Alma in respect of Way 2 Save, 147 Ripple Road Barking has been made. Four representations against the application have been received. These are from the Licensing Authority Responsible Authority Officer under the Licensing Objectives of the Prevention of Crime & Disorder and the Prevention of Public Nuisance; together with three further representations from three Ward Councillors, under the Licensing Objectives of the Prevention of Crime & Disorder and the Prevention of Public Nuisance and Public Safety. 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

The Application under Consideration

2.1 On the 11 November 2019 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**.

2.2 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.

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

Supply of alcohol

- 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**.

2.4 The Designated Premises Supervisor at the time of the application was Mr. Can Alma.

2.5 Representations

2.6 A representation against this application has been received from the Licensing Authority Responsible Authority Officer. The grounds of objection are under the Licensing Objectives of the Prevention of Crime & Disorder and the Prevention of Public Nuisance which is attached as **Appendix C**.

2.7 Three further representations have been received by three ward Councillors, under the Licensing Objectives of the Prevention of Crime & Disorder, Public Nuisance and Public Safety which is attached as **Appendix D**.

2.8 The Premises Operating History

- 2.9 January 2016 - the licence was first transferred to the current licence holder, Mr Murat Alma, who also became the DPS. The licensable activities permitted were the Sale of Alcohol between the hours of 07:00 to 01:00 Sunday to Thursday and Friday & Saturday until 02:00am with opening hours 24 hours a day.
- 2.10 December 2016 - Variation submitted to allow the premises to sell alcohol 24 hours a day. For this application Mr Alma offered no extra conditions. 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.
- 2.11 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.
- 2.12 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.
- 2.13 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).
- 2.14 October 2018 - A variation application was received to extend the licensable activity of Sale of alcohol until 02:00am with a closing time of 02:00am. Five representations against the application were received, they were from three local ward Councillors, the Metropolitan Police and the Licensing Authority. The grounds of objection were under the Licensing Objectives of the Prevention of Crime and Disorder and the Prevention of Public Nuisance. Since the initial representations were made both the Police and the Licensing Authority made further representations adding to their original one. The application was heard by the Licensing Sub Committee on the 28 November 2018, the Application was refused.
- 2.15 October 2018 – Application received to vary the Designated Premises Supervisor to Mr Can Alma with Mr Murat Alma remaining as the Licence Holder.
- 2.16 16 December 2019 – Visit carried out by Senior Licensing officer and noted apart from query around sales of single cans / bottles premises was compliant and looked to be well run.

Local Area

- 2.17 A map of the local area is attached as **Appendix E**. 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)
 - The Barking and Dagenham Statement of Licensing Policy for 2017-2022.
- 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.

Background Used in the Preparation of the Report:

- Licensing Act 2003
- S. 182 Home Office Guidance to Local Licensing Authorities

List of appendices:

- **Appendix A** - Copy of the application
- **Appendix B** - Copy of the current licence
- **Appendix C** – Licensing Authority Officer representation
- **Appendix D** – Ward Councillors Representation
- **Appendix E** – Local Area Map