

LICENSING SUB-COMMITTEE

Tuesday 27th October 2020

Title: Licensing Act 2003 – Tay Tan Caravan Café, 13a (Car Park Bays 1, 2 and 5) River Road, Barking, IG11 0HE	
Report of the Service Manager Public Protection, Regulatory Services	
Open Report	For Decision
Wards Affected: Thames	Key Decision: No
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Accountable Director: Andy Opie, Operational Director, Enforcement Services	
Accountable Strategic Director: Fiona Taylor, Director of Law and Governance	
Summary An application for a new premises licence has been made by Miss Tanem Djoshkun in respect of the Tay Tan Caravan Café situated in car park bays 1, 2 and 5 at 13a River Road, Barking. The application is subject of two representations received from the Metropolitan Police Licensing Officer for the area and the Licensing Authority's Responsible Authority Officer. The matter is put to the Licensing Sub-Committee for determination at a public hearing, accordingly	
Recommendation That the Sub-Committee considers the content of this report and related 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, 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
 - The protection of children from harm
- 1.4 Where representations are received, and are neither conciliated nor withdrawn, then the local licensing authority must hold a public hearing to determine the application.

2. Application under consideration

- 2.1 On 2 September 2020, Miss Tanem Djoshkun made an application for a new time-limited premises licence in respect of the premises known as the Tay Tan Caravan Café, proposed to run until 16 July 2021, though indication is given that, if granted, this may be extended in due course.
- 2.2 The application describes the premises as a 'caravan café'. It comprises of a stationary mobile vehicle located in car park bays 1, 2 and 5 outside of A C C Garage Services Ltd at 13a River Road, Barking, IG11 0HE.
- 2.3 The application seeks to enable the premises to provide late night refreshment between the hours of 23.00 and 05.00 each Friday and Saturday night. The premises normal hours of operation is currently from 08.00 to 18.00 seven days a week. The premises serve take-away hot food and drink. The premises does not sell alcohol and the application does not seek to permit this.
- 2.4 A copy of the application is attached as Appendix A to this report. Section 18 of the application briefly sets out the range of measures proposed by the applicant to promote the four licensing objectives and to form the basis of the conditions of any licence granted. The application also incorporates a hand drawn plan and photographs showing the location of the premises.

3. Representations

- 3.1 Two representations have been received in respect of this application. One from the Metropolitan Police Licensing Officer and one from the Licensing Authority Responsible Authority Officer.

Police representation

3.2 The representation received on behalf of the police licensing officer is made under the licensing objectives of public safety and the prevention of nuisance. The representation raises concerns that the premises operation could be a source of nuisance and disturbance to local residents and that the location of the premises, positioned as it is close to passing traffic could put users at risk, particularly later in the night. This representation is attached as Appendix B to this report.

Licensing Authority Responsible Authority Officer representation

3.3 The representation received on behalf of the licensing authority responsible authority officer is made under the same two licensing objectives and raises similar concerns. This representation is attached as Appendix C to this report.

Conciliation

3.4 In view of the concerns raised under their respective representations both responsible authorities propose that any licence granted should be restricted to 00.00 initially to enable opportunity to demonstrate that it may operate without giving rise to the envisaged concerns. Both also support the adoption of more developed licence conditions. To this effect a set of conditions were proposed during the consultation period to the applicant by the police by way of an email dated 7 September 2020. This email is attached as Appendix D. The proposed conditions cover matters such as

- Staff training
- CCTV provision
- A zero tolerance to drugs
- Incident and refusals books
- Requirement for clearance of rubbish
- Limitations on hours of waste collection
- Checks and maintenance of electrical equipment and installations
- Fire-risk assessment
- 'Please be respectful of local residents' signage
- No unaccompanied children after 21.00

3.5 The proposed conditions are supported by the licensing authority responsible authority officer. They have also been accepted by the applicant by way of email dated 7 September 2020 which is attached as Appendix E.

3.6 Miss Djoshkun does not, however, accept the proposal to restrict the extent of the operating hours applied for. Miss Djoshkun's agent's email of 2 October 2020 gives the reasoning for this. A copy is included with this report at Appendix F.

3.7 Through the application it has been intimated that the applicant intended that the Tay Tan would primarily benefit from trade generated by the nearby operation of a licensed shisha bar holding a late licence. During the consultation process the holder of the premises licence in respect of the shisha bar indicated that given the operating restrictions placed upon it during the Covid-19 pandemic the premises would close and cease to operate. This has been brought to the attention of Miss Djoshkun.

Covid-19 restrictions

- 3.8 The Government's current covid-19 business operating restrictions currently apply to the Tay Tan Caravan Café also. These restrictions mean that, even if a premises licence with late operating hours should be granted, the premises will be required to close at 22.00 each evening until Government directions say otherwise. Customers of the premises must also abide by the 'rule of six'.

Map of the local area

- 3.9 A map of the local area is provided at Appendix G. The premises is located close to the junction of River Road and Alfred Way, on the edge of a light industrial estate, with residential accommodation close by.

4. Options Appraisal

- 4.1 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.
- 4.2 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.
- 4.3 Having considered the application, the representations and all relevant submissions, the Sub-Committee must decide what action is appropriate to promote the licensing objectives.
- 4.4 Any licence granted must be made subject to the mandatory licence conditions established by the Act and to conditions consistent with the measures proposed by the applicant to promote the licensing objectives (as amended by any conciliation process).
- 4.5 Any licence granted may be subject to additional conditions considered appropriate by the Sub-Committee to promote the licensing objectives.
- 4.6 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); and
 - The Barking and Dagenham Statement of Licensing Policy for 2017-2022.
- 4.7 The options open to the Committee are:
- To grant the application.
 - To refuse to grant the application; or
 - To grant the application subject to additional conditions.

4.8 In the event that any party is aggrieved by the decision of the Sub-Committee, they have the right to appeal the decision to the Magistrates Court. Appeals must be made within 21 days of notification of the Sub-Committee's decision.

5. Consultation

5.1 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, displayed at the premises and published on the Council website. Notifications have been provided to all responsible authorities and ward councillors.

6. Legal Implications

Implications completed by Deirdre Collins, Prosecution Barrister, Law and Governance

6.1 The Council must have regard to:

- The Licensing Act 2003
- Subordinate Legislation
- S.182 Guidance
- Case Law
- LBBD Statement of Licensing Policy

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

- Appendix A – Premises Licence Application including plan
- Appendix B – Police representation
- Appendix C – Licensing Responsible Authority Representation.
- Appendix D – Conditions proposed by police during consultation
- Appendix E – Email confirming acceptance of proposed conditions from applicant
- Appendix F – Agent response to proposal to limit operating hours sought
- Appendix G – Map of the local area