

MINUTE

PUBLIC

Licensing Committee
Council Chamber, Town Hall, Lerwick
Friday 25 January 2013 at 11.05am

Present:

G Smith	M Bell
P Campbell	A Duncan
C Smith	A Westlake

Apologies:

A Cooper	G Robinson
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In Attendance (Officers):

S Brunton, Team Leader - Legal
M Sandison, Executive Manager - Environmental Services
Chief Inspector MacInnes, Northern Constabulary
L Adamson, Committee Officer

Chair

Mr G Smith, Chair of the Committee, presided.

Circular

The circular calling the meeting was held as read.

Declarations of Interest

None.

01/13 **Minutes**

The minutes of the Licensing Committee meeting held on 16 November 2012, having been circulated, were confirmed on the motion of Mr C Smith seconded by Mr G Smith.

02/13 **Turkish Delight: Application for Renewal of Late Hours Catering Licence – Licence to be Determined**

The Committee considered a report by the Executive Manager - Environmental Services (ES-02-13-F), which sought a decision on an application for a Late Hours Catering Licence, to which there have been adverse representations.

The Chair welcomed everybody to the meeting.

The Executive Manager introduced the report, and in referring to the Appendix she summarised the proposed opening hours for the late hours catering licence application and highlighted the offences Mr Kusmus has been convicted of. She said that Environmental Health Officers have been working very closely with Mr Kusmus to improve the hygiene standards for several years. However Mr Kusmus has twice been on the point of being served with emergency prohibition notices to close the business because of hygiene issues. Mr Kusmus has been convicted of a number of hygiene related offences which are detailed in the report. The substance of these convictions is such that they are breaches of his Late Hours Catering Licence conditions. In considering the convictions and the failure to comply with licence conditions the Committee may conclude that Mr Kusmus is not a fit and proper person to hold a licence. The Executive Manager summarised the objections received from

the owners of the neighbouring properties, and she outlined the options available to the Committee in regards to this application.

In referring to the letter from the Police, appended to the report, CI MacInnes commented on the large number of incidents where the Police has been called to attend at the "Turkish Delight", which he considered was an unacceptably high volume for any one premises.

The Chair then invited Mr Stewart, an objector, to explain his concerns. Mr Stewart stated that, "When Mr Kusmus came up here first we got on fine. But the problem with the litter started quickly with litter in the alleyway, and fat comes up through the drains in the courtyard. I imagine Mr Kusmus was overwhelmed with the number of drunk people that appeared. My letter mentions drug use, I want to say that Mr Kusmus was not in Shetland then. I thought it was drug use as there were a lot of people coming, that was from May 2011 – Sept 2011. I spoke to Mr Kusmus recently, and it was Bulgarians who had the place then. They threatened me. There were people sleeping upstairs". Mr Stewart advised that he did not report the incident when he was threatened to the Police as he hoped the owner of the building would deal with it.

Mr Stewart said that there has been vandalism, and people use the rear of the building as a toilet, with faeces and sick at the bottom of the stairs. He considered that this was due to the number of drunk people who come to the building because of the late licence and that he has no problem with a takeaway at other times.

The Chair thanked Mr Stewart for his contribution.

Mr Kusmus, through an interpreter, reported to the Committee that he would like to have a Late Licence as he earns his living from the business. The objector is only one of his neighbours with whom he has a problem. Mr Kusmus said that he could have called his other two neighbours to act as witnesses on his behalf. He believes that the objector wants to close his business, as the objector would like to buy the building. The building owner has told him this. Mr Kusmus felt aggrieved by the objector's behaviour as he had tried to be a good neighbour and had in fact burned himself trying to prevent a fire at the objector's premises

The Executive Manager asked if Mr Kusmus could address the issues of cleanliness within his premises.

Mr Kusmus confirmed he had been in court yesterday. He explained that he had had a heart attack two years ago and so for a period of 9 months he was back and forth to Turkey. He could not control his business then. Now everything is under control and he has his son's assistance and his health is fine. All is going well. He plans to open a restaurant upstairs in May.

Mr Kusmus explained that the two people who were staying above the shop were there because they had nowhere else to live. They stayed for one day and when we heard about it he moved them on. The Landlord was aware of this.

The Executive Manager asked Mr Kusmus to explain the impact on his business should he not get a Late Hours Licence.

Mr Kusmus explained that each day the shop is open from 12 to 12. Saturday night is busy and he makes money from people doing late shopping. It is after 11pm that the objector complains about people throwing rubbish. It is very important to the business that the shop

is open late. The objector just wants the shop closed. The other eateries in the Town Centre are open to 3am, and some of them are very close to his premises.

In referring to the comments from the Police, Mr Kusmus was asked to comment on the number of incidents at his premises which has required the Police to attend.

Mr Kusmus explained that there is always something happening outside the shop with drunken people when they are going home, fighting or waiting for a taxi. Because he is a decent human being, he informs the police if people are outside fighting. He will no longer report anything happening outside to the police.

In response to a question from the Chair, Mr Kusmus confirmed that he had been given sufficient opportunity to address the Committee. He then submitted two letters from his other neighbours to the Committee.

The Chair read to the Committee letters from Cindy's Hairdressers and the Bop Shop, which confirmed that they had no objections to the late licence application.

In response to questions from Members, the Executive Manager advised that on the two occasions when the Emergency Prohibition Notices were about to be served, the business had to shut voluntarily and Environmental Health officers checked the improvements had been made before the business re-opened. However she confirmed that there were still a number of outstanding hygiene issues at the premises such as the need for a written food management system for the business.

The Executive Manager confirmed that none of the other late hours catering businesses in Lerwick have been reported for any offences which would amount to non-compliance with their Licence.

Mr C Smith said that from what he has heard today, he was not confident that the premises would operate in any better way than in the past. The Executive Manager said that Mr Kusmus has not managed hygiene well, and that Environmental Health Officers do not have confidence in Mr Kusmus' ability to improve in the future. She said that there have been some improvements in the hygiene of the premises since Mr Kusmus' son has had involvement in the business but she still had serious concerns as an environmental health officer.

In response to a question, CI MacInnes advised that the Police are called out to other fast food catering late licence premises in Lerwick, however the call outs to the "Turkish Delight" have been more frequent over a longer period of time.

(Mrs Westlake left the meeting).

Mr Duncan said that he had concerns regarding the number of times the Police have been called out to the "Turkish Delight", and to the seriousness of some of the incidents. Mr Duncan moved that Committee refuse the application on the grounds of the issues around environmental health and that Mr Kusmus is not a fit and proper person to be the holder of the Late Hours Catering Licence. Mr Bell seconded.

Mr Kusmus was advised of the right of appeal.

The Chair thanked Mr Kusmus for attending the meeting.

(Mr Kusmus, Mr Kusmus' son, and Mr Stewart left the meeting).

Decision:

The Committee **RESOLVED** to refuse to grant the Late Hours Catering Licence.

On the motion of Mr G Smith, seconded by Mr C Smith the Committee resolved in terms of subsection 4 of Section 50A of the Local Government (Scotland) Act 1973 to exclude the public from this meeting during consideration of the following agenda item on the grounds that it is likely that, if the public were present, there would be disclosure of exempt information as defined in paragraph 6 of Part I of Schedule 7A to the said Act.

(No members of the Public were present).

03/13 **Application for Grant of Taxi Drivers Licences**

The Committee considered a report by the Executive Manager – Transport Planning that sought a decision to be made on two applications for taxi drivers licences.

The Committee decided to admit, for consideration, observations from the Police concerning previous convictions of the applicants. Copies of the Police observations were then circulated to Members.

Decision:

The Committee **RESOLVED** to:

1. refuse the grant of a taxi driver's licence, and
2. approve the grant of a taxi driver's licence for a period of 1 year.

The meeting concluded at 12.05pm.

CHAIR