



Report of: Jan Hart – Service Director – Public Protection

Meeting of:	Date	Agenda item	Ward(s)
Licensing Regulatory Committee	17 November 2010	A5	Bunhill

Delete as appropriate		Non-exempt
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SUBJECT: APPLICATION TO VARY LICENCE - 569 WHITECROSS STREET: MR YUSUF CIFCI

1. Synopsis

- 1.1 This report deals with an application made by Mr Yusuf Cifci, to vary the licence that was issued to him on the 14th June 2010.

2. Recommendation

- 2.1 To consider the application and decide whether to grant the variation or to refuse it.

3. Background

- 3.1 Under the London Local Authorities Act 1990 (as amended), the borough council is responsible for the licensing of street trading. The Street Trading Team interview all potential traders and determine their suitability for any given area. Due to the decline of street trading in markets (throughout London), it is rare that applicants are refused unless they are undesirable or the product is over subscribed.
- 3.2 Due to a major injection of funding by EC1 New Deal, for a programme running from 2001 - 2011, Whitecross Market has undergone a major overhaul. The idea was to bring life back to the Street and the once thriving market and to create a Destination Food Market. A number of food festivals took place between 2006 – 2008. By the end of 2007, it was clear that food was the attraction mainly of the 'takeaway and consume at lunch time' variety. A majority of the consumers were and still are city workers. In 2006 there were 12 occupied pitches (full licences), three of which selling take away type foods. There are now 49 occupied pitches, 35 of which sell food. It is a success story for the consumer but has caused resentment amongst the nearby food businesses who claim to have lost trade to the market traders.

- 3.3 In mid 2007 the council received complaints from other businesses in the market about the number of licences granted to traders selling food. Members requested the Team to look into the criteria applied for granting licences in Whitecross Street. The Street Trading Panel decided that in future applications received to sell take away type foods would be refused as there were enough traders in the market selling this commodity. The only exceptions were to be from existing food establishments on the street who wanted to extend into the market, if a pitch directly outside their premises was available.
- 3.4 This decision was challenged by EC1 New Deal in May 2008, as they were concerned that as they had invested so much money to create jobs for the community, the procedure should be reviewed in regards to local applicants who had gone through their mentoring programmes. A further two hot food sellers, who fell into this category, were approved towards the end of 2008 and another one at the Licensing Regulatory Committee on 13th July 2010.
- 3.5 In January 2009 the council received a petition from the solicitor acting on behalf of businesses against the food market. Mr Cifci from Café Dolce was one of these complainants. As a result, businesses in and around Whitecross Street Market were told that in future the only applications the council would consider granting were for those other than for 'hot foods' or any take away type foods that need no further preparation, excluding empty pitches outside food establishments wishing to extend their business.
- 3.6 In addition to the street traders, there are around 20 cafes/restaurants in Whitecross Street and numerous others nearby. In the last two years a considerable number of applications have been refused under officer delegated authority for the reason stipulated in paragraph 3.5. Some of the applications received have been from local people and local businesses.
- 3.7 Mr Yusuf Cifci had a lease with the premises at 154 - 156 Whitecross Street 'Café Dolce' which has an A1 use.

In 2010 Mr Cifci contacted Street Trading on numerous occasions wanting to sell hot foods in the main part of the market, claiming his business was suffering. It was explained that that he could not be placed in the main part of the market selling hot foods, but could be allowed to extend his business onto the pavement outside in order to entice passers by. The Team also recommended that he contact the council's business advice partners in 'Centra' who would be able to work with him to look at solutions for improving his business model. Mr Cifci agreed to do this and then applied to sell goods 'as sold in his Café' outside his premises.

- 3.8 Mr Cifci was issued a licence on 14 June 2010 (see appendix 1). After a two week trial, Mr Cifci stopped trading. Building works commenced at his premises. The premises was split into two, one part remained 'Café Dolce' (156) the other was leased to sell Vietnamese foods (154).
- 3.9 Mr Cifci started trading again in October but it was reported that he was selling Vietnamese hot foods, in breach of his licence conditions. Mr Cifci attended a Street Trading Panel on Monday 11th October, where he was informed that he was only allowed to sell items that were being sold in his shop. After questioning him about his commodities, he was adamant that he was not selling Vietnamese foods and he was not in partnership with the managers of the other half of his original café. He informed the Panel that he just wanted to be able to griddle some meats. He also promised there would not be any smoke issues. The Panel agreed to allow him until the end of that week to use all the stock of chicken and pork pieces he had purchased, before reverting to what was stated on his licence. He was informed that the Council would not vary his licence to sell hot foods as hot food licences were not permitted. He was also informed of his right to appeal.
- 3.10 On the 11th October the council received a letter of appeal from Mr Cifci (see appendix 2).
- 3.11 In the same week, both Environmental Health and the Street Trading Team received complaints from the Whitecross Estate TRA saying their residents were suffering as a result of all the smoke and smells entering their flats. It was established that the smoke and smells were coming from Mr Cifci's pitch.

- 3.12 On Thursday 14th October, the Street Trading inspectors asked Mr Cifci to cease trading with immediate effect and to contact the Street Trading Manager. The workers on the pitch were selling Vietnamese products (see pictures attached appendix 3 a,b & c).
- 3.13 Despite the Team informing Mr Cifci he was to cease trading, the stall traded again on Friday 15th October. The Street Trading Officers took enforcement action as soon as they found out and Mr Ciftci ceased trading.
- 3.14 Mr Cifci feels unable to make any changes to his café and that the only way his business could survive is if he be allowed to sell hot foods from the pitch. He has however agreed to seek further advice from 'Centra' with reference to improving his business.
- 3.15 The products he now wishes to sell are as appended (appendix 4).
- 3.16 Mr Cifci asked that this case be heard urgently. The council explained that this could only happen if he agreed to dispense with the 21 day notice (see appendix 5). A letter of consent to waiver the 21 day notice has been appended (appendix 6).

4. Implications

4.1 Financial implications:

The Street Trading Account should break even each year and any shortfall would be met from compensating savings within this account.

As well as a weekly fee of £45 a variation fee of £70 will be applied if this application is granted.

4.2 Legal Implications:

Section 27 of the London Local Authorities Act 1990 (as amended) states:

A licence granted under section 25 (Application for street trading licences) of this Act, shall -

(a) unless it is revoked or surrendered, be valid for a period of three years from the date on which it is granted, or for such shorter period as the borough council may determine;

(b) specify the conditions; and

(c) in the case of an individual incorporate one of the photographs of the licence holder submitted under subsection (3) of the said section 25;

and on any occasion of the renewal of a licence, or at 1st January in any year during the currency thereof, (whether on application by the licence holder or otherwise) or at any time on application by the licence holder, the borough council may vary the conditions.

Section 29 (1) (c) states that a borough shall not vary a licence under section (1) of section 27 (conditions of street trading licences) of this Act;

unless they shall have given to the applicant or licence holder not less than 21 days' previous notice in writing that objection has been or will be taken to such grant or renewal or that such revocation or variation is proposed, specifying the ground or grounds on which their decision would be based and giving him an opportunity to appear before the committee, sub-committee or officer determining the matter.

4.3 Environmental Implications

An environmental impact scoping exercise has been carried out and it was identified that the proposals in this report would have minimal impacts on the following:

Energy use and carbon emissions

Use of natural resources

Travel and transportation

Waste and recycling

Climate change adaptation

Biodiversity

Pollution

4.4 Equality Impact Assessment:

The Council must, in carrying out its functions, have due regard to the need to eliminate unlawful discrimination and harassment and to promote equality of opportunity in relation to disability, race and gender and the need to take steps to take account of disabilities, even where that involves treating the disabled more favourably than others (section 49A Disability Discrimination Act 1995; section 71 Race Relations Act 1976; section 76A Sex Discrimination Act 1975."

An equalities impact assessment (EIA) on this proposal was carried out on 8 November 2010. The EIA identified that there would be no differential impacts on different groups in Islington and no negative consequences for community cohesion. This conclusion was drawn because this report is dealing with a particular individual who has applied for a street trading licence.

5. Conclusion and reasons for recommendations

- 5.1 Preventing anyone from earning a living is never the council's intention when refusing an application. Indeed most London borough markets have witnessed a steady decline of traders over the years and refusing to grant a licence or a variation to a licence is never taken lightly. However the council also has a duty of care to all existing businesses and must acknowledge the need to ensure a fair balance and keep to agreements that are made.

Appendices

- Appendix 1 Copy of Licence (exempt)
- Appendix 2 Vary application
- Appendix 3 a, b & c Pictures
- Appendix 4 Menu
- Appendix 5 Letter to Mr Cifci
- Appendix 6 Consent letter

Background papers:

- London Local Authorities Act 1990 (as amended)

Final report clearance:

Signed by:

Service Director – Public Protection Date

Received by:

Head of Democratic Services Date

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Café Dolce

Public Protection Division
London Borough of Islington
Street Trading
222 Upper Street
London
N1 1XR

11 October 2010

Licence No.: 569
Pitch No.: 569

Dear Sirs,

Re: Application for variations of existing Street Trading Licence.

I wish to apply for a variation of our existing Street Trading licence, as above, from one licensed to sell cold food to one that is licensed to sell hot food.

- the licensable activities Selling grilled Pork, chicken, fish and lamb;
- the hours when they will be carried on Between 10am to 5pm;

Please note, I have been running my business for the last 8 years and given the fact that we are experiencing problems due to the credit crunch, and the fact that in the last two years the Licensing Authority has granted more than thirty hot food licences on Whitecross street. I need to have my licence varied to be more competitive.

Yours sincerely,


Mr Yusuf Cifci
Proprietor

Enclosure: Photocopy of my licence

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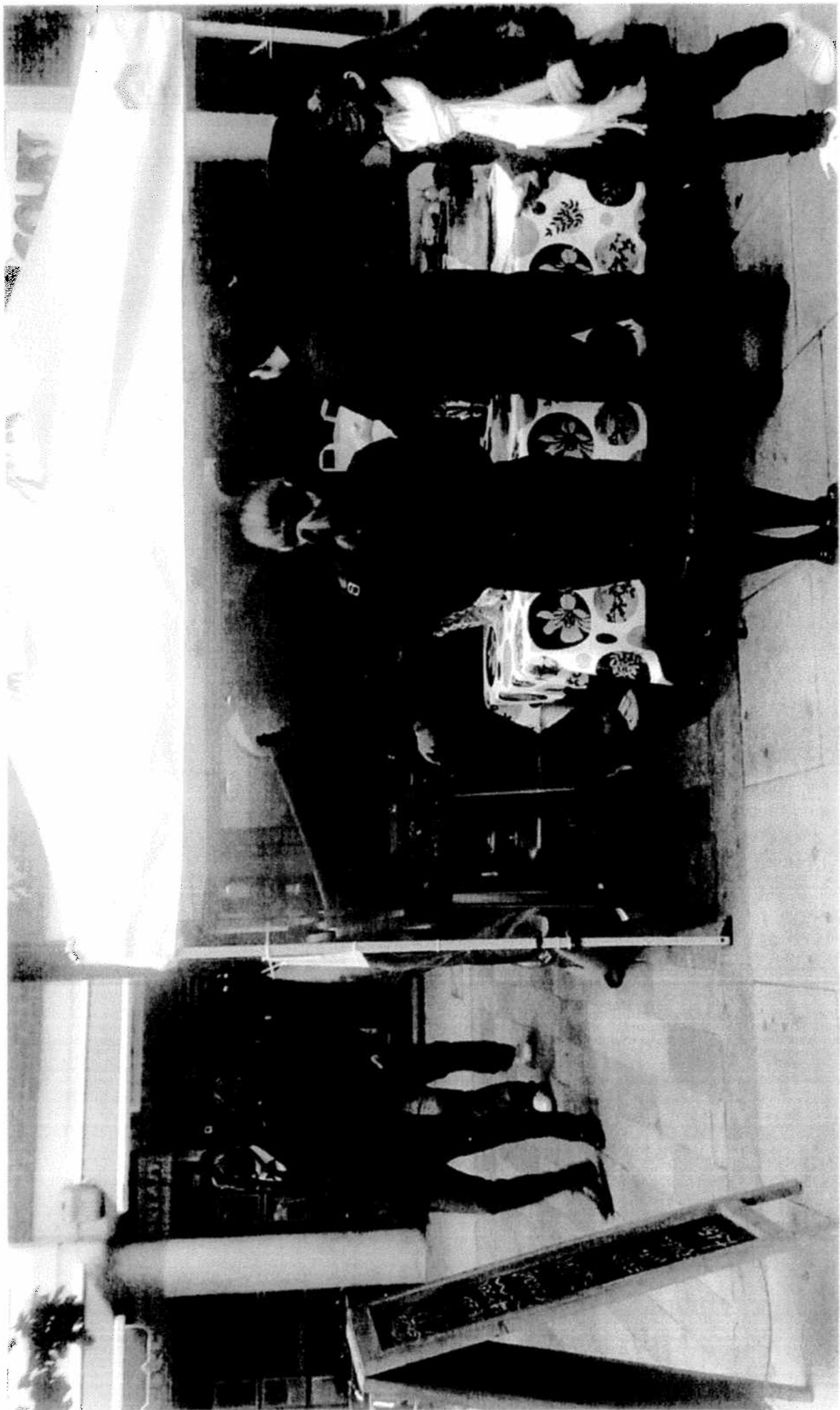
APPENDIX 3a



APPENDIX 3b



APPENDIX 3C



750 401

1. Fish Cake in Tomatoe Sauce

2. Spicy Stew Beef with
Lemon Grass

3. Chicken in Soya and Ginger
Sauce

All served with fragranced
Rice and green beans



Street Trading Team
Public Protection Division
222 Upper Street
London N1 1XR

T 020 7527 3046

F 020 7527 3165

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W www.islington.gov.uk

Mr Yusuf Cifci
156 Whitecross Street
London
EC1Y 8QN

Our ref:

Your ref:

Date: 8 November, 2010

This matter is being dealt with by:
Houriye Dervish

Dear Mr Cifci,

LICENCE NO. 569 WHITECROSS STREET MARKET

I am writing with reference to our Street Trading Officers Panel meeting on Monday 11th October and our subsequent meetings and telephone conversations.

When we met at the panel it was clearly explained to you that you were in breach of the Street Trading conditions. Your licence states that you could sell only the items sold you in your shop 'Café Dolce'.

I asked you if you were selling Vietnamese foods and you said 'no', all you were doing was just griddling some chicken and pork. This was 'hot foods'. We explained that you cannot sell this in your shop and therefore not outside on the pitch. After listening to your appeal we agreed to allow you to use up the rest of your stock of chicken and pork and trade up until the end of that week only. You also assured us that you would not create a smoke problem and that smells would be contained. You were not happy that you were unable to do hot foods and said that you would appeal to the Licensing Regulatory Committee.

On the 11th October, we received a letter from you appealing to have your licence changed so you are able to sell hot foods.

You rang me on Thursday 14th October and asked if you still had until the end of that week. I said yes thinking you were doing what you had promised to do. I then received complaints from the Whitecross Estate Residents Association. The residents were not happy with all the smoke and smells you were producing. The gentlemen you allowed to trade on the pitch seemed to have quite an independent business going on to what was sold inside your shop. The foods being sold on your pitch was clearly Vietnamese (see attached photographs). I therefore instructed my staff to inform you that you had to stop trading immediately and certainly not to come out the following day i.e. Friday. You again continued to sell 'Vietnamese foods' and indeed come out on Friday. When the assistants on your pitch were approached a gentleman who I now know to be called 'Joe' seemed to be the one managing them and they had no idea they could not trade. They packed up when asked to do so.

We arranged to meet at the council offices on 21st October which you attended together with Mr Joe Dang who has recently occupied 154 Whitecross Street. It was established that Mr Dang would be opening up his premises selling Vietnamese foods but in the meantime he was helping



you with your business. At this meeting it was explained to both you and Mr Dang that your licence permits you to sell only what is being sold in your café and as your café does not hold an A1 licence to cook food inside you were also not able to cook hot foods outside your premises.

I am conscious that you wanted this matter brought before a Committee as soon as possible. A Licensing Regulatory Committee has now been scheduled to hear your case on the 17th November. This does not give you 21 days notice as legally obliged under the London Local Authorities Act 1990 (as amended).

If you wish this case to be heard on the 17th November you must agree in writing to dispense with the 21 day notice. Alternatively your case can be deferred until the next Committee meeting which is scheduled for the 13th December 2010.

If you need any further clarification please do not hesitate to contact me.

Yours sincerely

Houriye Dervish
Street Trading Manager

APPENDIX 6 .

Mr Yusuf Cifci

[REDACTED] street
London E6 4JN

09 Nov 2010

Dear Members,

This letter is to confirm that I wish my case to be heard on 17th November 2010.
I would like the Licensing Regulatory Committee to consider my application to have my licence 569 varied to enable me to sell hot foods.

I understand that the council should have given me 21 days notice before hearing my case but was unable to do that. I agree to dispense with this 21 day notice.

Yours Sincerely

