

Licensing Sub-Committee

Meeting held on Tuesday, 24 September 2024 at 10.30 am. This meeting was held remotely.

MINUTES

Present: Councillors Margaret Bird, Danielle Denton and Ian Parker

PART A

46/24 Appointment of Chair

It was **MOVED** by Councillor Danielle Denton and **SECONDED** by Councillor Ian Parker and **RESOLVED** to appoint Councillor Margaret Bird as Chair of the meeting.

47/24 Disclosure of Interests

There were none.

48/24 Urgent Business (if any)

There were no items of urgent business.

49/24 Licensing Act 2003 - Application for a Premises Licence at 1465 London Road, Norbury, SW16 4AQ

The Chair outlined the procedures for the Licensing Hearing in line with the Licensing Act 2003 and the Council's protocol.

The applicant's representative, Mohammed Bashir, was present.

The Head of Environmental Health, Trading Standards and Licensing introduced the application to the Sub Committee.

The Head of Environmental Health, Trading Standards and Licensing explained that the application was for a premises licence at 1465 London Road Norbury, for one licensable activity which was the provision of late-night refreshment, Monday to Sunday from 11pm to 2am.

The Head of Environmental Health, Trading Standards and Licensing informed Members that following discussions between the police licensing officer and the applicant, the applicant had amended their application to accommodate the conditions set out in Appendix A2 of the agenda should the Sub Committee be minded to approve the application.

The Head of Environmental Health, Trading Standards and Licensing stated that the police had not made any representations on the application.

The Head of Environmental Health, Trading Standards and Licensing explained that the representation received on the application were from a local resident association. The Head of Environmental Health, Trading Standards and Licensing informed Members that the premises was on London Road in Norbury, which was near the borough boundary with Lambeth.

The applicant's representative, Mohammed Bashir, was given the opportunity to speak. Mohammed Bashir advised:

- They had the same type of premises licence at premises owned by the business in other areas of the country.
- Some of their other outlets took food delivery orders until 4am-5am, which is why on their application they requested permission to be able to operate until 2am.
- The dessert industry had taken a slight downturn, and they had hoped that obtaining this premises licence would generate more revenue and help the business overall.
- They had operated on the premises for over 15 years, previously as another brand and they wanted to continue to serve the community during the hours that they wished to visit the store.

The applicant's representative explained that they would consider sticking to taking telephone and online orders late at night if in person orders became a nuisance to residents.

In response to a question from the Panel, the Head of Environmental Health, Trading Standards and Licensing explained that the pollution team have not made representations or raised any concerns about the application. The Head of Environmental Health, Trading Standards and Licensing stated that the typical type of complaint that the pollution would receive would relate to loud music which was unlikely to be generated from the premises. The applicant's representative confirmed that they do not play any live music on the premises.

In response to questions from the Sub-Committee the applicant's representative informed Members that staff members would be responsible for ensuring that the volume was kept low or gradually turned off towards the end of the night.

In response to questions from the Sub-Committee the applicant's representative informed Members that they would have a designated staff

member to manage queues of more than 3 people, there would also be a barrier system in place.

In response to questions from the Sub-Committee the applicant's representative explained that they currently served hot and cold desserts on a nationwide set menu which was the same across all stores. The applicant's representative informed Members that their late night orders would consist of hot deserts and hot savoury items such as crepes and paninis, which was similar to what they would serve during the daytime.

In response to questions from the Sub-Committee the applicant's representative explained that they were one of the leading businesses in the dessert market. The applicant's representative informed Members that they received several orders after 10pm in the evening, which demonstrated that there was a market for late night orders in their industry.

In response to questions from the Sub-Committee the applicant's representative informed Members that there was no space outside of the shop for motorbikes to park, delivery drivers usually walk up to the shop.

In response to questions from the Sub-Committee the applicant's representative stated that the only parking for delivery drivers on motorbikes was on the main road, however, these spaces were not solely for bikes as cars were also permitted to park there.

In response to questions from the Sub-Committee the applicant's representative explained that they were aiming to introduce new items to their menu, however it took time to introduce a new product to the menu. The applicant's representative stated that they were waiting on their product development team to see whether they had the facilities or the space to accommodate new items on the menu.

The Head of Environmental Health, Trading Standards and Licensing queried whether the applicant had considered amending the application to only take late night order via the telephone or online or did they still wish to take in person orders via a hatch at the shop. The applicant's representative explained that they would like to have the option of a hatch to allow customers to come to the store for takeaway orders, if they were unable to implement this successfully then they would consider only taking telephone orders.

After the hearing the Sub-Committee withdrew to the virtual deliberation room and RESOLVED to GRANT the application to the premises licence. The reasons for this decision are set out in the Statement of Licensing Sub Committee decision as follows:

The Licensing Sub-Committee considered the application for a new Premises Licence in respect of the premises at **1465 London Road, Norbury, London, Croydon SW16 4AQ** known as 'Kaspa's Desserts Norbury'.

The Sub-Committee considered the representations received as contained in the report of the Corporate Director Sustainable Communities, Regeneration and Economic Recovery, the further information provided by the Applicant in support of the application and also heard the verbal representations made on behalf of the Applicant by Mr Mohammed Bashir who attended the hearing and made representations on behalf of the Applicant who was unable to attend.

The Sub-Committee, having reference to the licensing objectives under the Licensing Act 2003 (“the Act”), Statutory guidance under Section 182 of the Act and the Council’s Licensing Policy 2023-2028, considered whether it was necessary for the promotion of the Licensing Objectives to take any of the following steps: to grant the application, to vary the application with or without further conditions or to refuse the application. The Sub-Committee **RESOLVED TO GRANT** the premises license subject to the conditions agreed with the Police Licensing Officer and set out at Appendix A2 of the report.

The reasons of the Sub-Committee were as follows:

1. The Sub-Committee carefully considered the concerns raised by the objector the Scots Estate (Norbury) Residents’ Association, who did not attend the hearing but submitted written representations.
2. The Sub-Committee noted that there were no objections to the application from the Council’s Pollution Team and it was confirmed by the Licensing Officer that as far as he was aware there were no complaints received in respect of the current operation of the premises. Notwithstanding this, the Sub-Committee had concerns in relation to the licensing objectives of public nuisance as they were concerned that the provision of late night refreshment from Monday to Sunday between 2300 hours to 0200 hours the following day, may lead to disturbance being caused to local residents late at night.
3. With regard to the proposal to provide a take-away service via a hatch, the Sub-Committee were aware and had reference to the Statutory Guidance which provides that, *“beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right.”* However, the Sub-Committee were interested to know whether there were any processes in place to manage people queuing outside the premises for take-away orders from the hatch to avoid any potential disturbance to residents, particularly those living directly above the premises. Mr Bashir confirmed that there would be barriers in place to assist in managing an orderly queue. Mr Bashir also confirmed that there would be no live music at the premises and any background music would gradually be turned down by a member of staff as closing time approached and eventually turned off when the premises closed.

4. The Sub-Committee asked Mr Bashir whether he would consider amending the application to provide a home delivery service only and not to offer a take-away service via the hatch. Mr Bashir did not agree to amending the application as proposed by the Sub-Committee but was open to reviewing and considering this option in the future if there were any complaints made to the Pollution Team should the application be granted.
5. The Sub-Committee noted that one of the concerns raised by the objector was in relation to the home delivery service, which would primarily be provided via delivery companies such as Uber Eats and 'Just Eat', which could result in disturbance being caused to nearby residents by motor bikes and other motorcycle vehicles, compromising the licensing objectives of public safety and public nuisance. Mr Bashir confirmed that as there was no designated parking area outside the premises, delivery drivers would be expected to park elsewhere and walk to the premises to collect orders placed online. The Sub-Committee were clear that there were a number of matters in respect of which issues had been raised but which were not within the authority of the Sub-Committee under the Licensing Act 2003 but were instead governed by other regimes – these included issues in relation to traffic management and parking in neighbouring streets.
6. In respect of prevention of public nuisance, the Sub-Committee noted the importance of focussing on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The Statutory guidance also makes clear that any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities.
7. The Sub-Committee were mindful that all licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be. The determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. The Sub-committee took into account the provisions within the Statutory Guidance at paragraph 9.44 which provides that determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that any condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the

authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters.

8. In light of the above, and having had regard to all the relevant considerations, the Sub-Committee considered it appropriate and proportionate to grant the application for a premises license with the conditions as agreed by the Applicant for the promotion of the Licensing Objectives.

The Sub-Committee wished to thank all participants for the manner in which they engaged with and supported the hearing in providing information to allow the Sub-Committee's consideration.

50/24 **Exclusion of the Press and Public**

This was not required.

The meeting ended at 11.14 am

Signed:

Date:

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