

Minutes

LICENSING SUB-COMMITTEE

7 August 2020

Meeting held at VIRTUAL - Live on the Council's YouTube channel: Hillingdon London



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| | <p>Committee Members Present: Councillors Martin Goddard (Chairman) Colleen Sullivan Janet Gardner</p> <p>Democratic Services Officer: Liz Penny, Democratic Services Officer</p> <p>Legal Officer: Kerrie Munro, Legal Advisor</p> <p>Presenting Licensing Officer: Mark McDermott, Licensing Officer</p> <p>Responsible Authority: Daniel Ferrer, Licensing Authority</p> <p>Interested Parties: Mr Trevor Sherling, representing the Northwood Residents Association Mr Damian Victory, local resident Miss Seema Parmar, local resident (in attendance for the first part of the meeting)</p> |
| 16. | <p>APOLOGIES FOR ABSENCE (<i>Agenda Item 1</i>)</p> <p>There were no apologies for absence.</p> |
| 17. | <p>DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING (<i>Agenda Item 2</i>)</p> <p>None.</p> |
| 18. | <p>TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART I WILL BE CONSIDERED IN PUBLIC AND ITEMS MARKED PART II WILL BE CONSIDERED IN PRIVATE (<i>Agenda Item 3</i>)</p> <p>It was confirmed that all items of business were marked Part I and would be considered in public.</p> |
| 19. | <p>MATTERS THAT HAVE BEEN NOTIFIED IN ADVANCE OR URGENT (<i>Agenda Item 4</i>)</p> <p>None.</p> |
| 20. | <p>APPLICATION FOR THE GRANT OF A PREMISES LICENCE: FUSION TADKA (<i>Agenda Item 5</i>)</p> |

Introduction by Licensing Officer

Mark McDermott, Licensing Officer at the London Borough of Hillingdon, introduced the report relating to the new application for a premises licence for Fusion Tadka Limited, 36 High Street, Northwood, HA6 1BN. The background and chronology of events was provided. Members were informed that the previous premises licence had lapsed in January 2020, and the Applicant, Mr Dip Bharatkumar Sukhadiya was the new business owner.

The new licence applied for mirrored the previous one with an additional request for recorded music to be played until 23:30 hours. Officers were recommending that the licence be granted with additional conditions.

Representation by Applicant / Applicant's representative

Mr Surendra Panchal, the Applicant's agent representative and Mr Sukhadiya, Applicant, addressed the Committee, and confirmed that the Applicant had made the application for the premises licence independently. Members were informed that the Applicant, Mr Sukhadiya, was very experienced in the licensed trade as he already owned an off licence and had always upheld the licensing objectives. He had no connection with the previous owner.

The Committee was advised that the Applicant agreed with all the proposed conditions. It was confirmed by the agent that alcohol would only be served with a meal, Challenge 25 would replace Challenge 21, no more than five people would be permitted to smoke in the smoking area at the front of the restaurant and full licensing objectives would be promoted.

In response to Members' requests for clarification, it was confirmed that Mr Sukhadiya would be the Designated Premises Supervisor, and had considerable experience in the licensed trade, having run two convenience stores since 2008 and a restaurant / sports bar in Stanmore since 2019.

Mr Sukhadiya confirmed that he would be devoting the majority of his time to running his new business. The Committee questioned how the Applicant as the proposed DPS, would be able to split his time between the different venues, and manage the licensable activities he sought in this application. Mr Sukhadiya reassured Members that he had other business partners at his other business locations, and would therefore be able to manage this business and its licensable activities. Mr Sukhadiya was open to discussing concerns with the local residents.

There was disparity between the Agent and the Applicant representations on the circumstances under which Alcohol would be served. The Agent confirmed that alcohol would be served to customers having a sit down table meal, whereas the Applicant stated that he would welcome customers attending the Premises to have alcohol at the bar with a snack. The Applicant subsequently retracted his statement and agreed with the Agent that alcohol would only be served to customers having a sit down table meal

It was noted by the Committee that, in the registration at Companies House, the business description included Club operation. The Agent confirmed that this new business would be operating as a restaurant / takeaway not as a Club and drinks would be served exclusively to those ordering a meal at a table; the Club reference applied to

any future activities that the company may wish to introduce to its other business ventures, and not presently at these premises.

Members were advised that the Applicant would be hiring new staff who would not be permitted to make noise and cause a disturbance to neighbours after closing hours.

Councillors expressed concern regarding noise emanating from the restaurant, and explained that complaints had been received from local residents about noise nuisance occurring at the business location under the previous ownership

It was confirmed by both the Applicant and the Agent that the business model would operate exclusively as a family restaurant. Music would be played at a reasonable level until 23.30 with the doors shut to minimise noise disturbance, and there was no connection with the previous business owners.

In respect of the Prevention of Public Nuisance, Members were concerned that those smoking outside the restaurant would be excessively noisy. The Applicant confirmed that his aim was to run a family oriented restaurant and he was happy to provide his telephone number to the local community to enable them to contact him if necessary. The Applicant stated that he had made the request with the Licensing Officer to receive the contact details of the interested parties, to discuss their concerns, but was informed that he could not share their personal contact details.

The Applicant stated that he would consider making the single entrance a double entrance to assist with managing and reducing noise.

In response to Members' questions, the Applicant confirmed that the premises would open from 12:00 midday until 23:30 seven days a week. Customers would be denied entry after 22:30 and last alcohol orders would be at 23:15.

Representations by Responsible Authorities

The Licensing Authority

Daniel Ferrer, on behalf of the Licensing Authority, addressed the Committee noting that there had originally been serious concerns regarding the Prevention of Crime and Disorder, the Prevention of Public Nuisance and the Protection of Children from Harm Licensing Objectives. Initially it had been unclear in the Application for a Premises Licence, whether the business would be operating as a bar, a restaurant or a hybrid of the two; it was now clear that the proposal was to run the business as a family restaurant. Conditions had been added to ensure that alcohol would only be served with a restaurant meal and supplied by waiter / waitress service. The Committee was advised that proposed conditions in Schedule 2 in the Agenda pack, would be appropriate should the Premises Licence be granted.

The Committee was informed that detail regarding the proposed operating schedule had been lacking in the original application. In respect of the Prevention of Crime and Disorder, it had been necessary to suggest a condition in relation to CCTV and an incident log. Two conditions had been proposed regarding noise to address the issue of the Prevention of Public Nuisance. Finally, the Applicant's proposal of Challenge 25 would ensure the Protection of Children from Harm, and should be accepted. It was felt that the proposed conditions were reasonable and would help to ensure that the licensing objectives were met. It was confirmed that only recorded music would be permitted; live music had not been applied for by the Applicant.

Representations by Local Residents

Mr Trevor Sherling of the Northwood Residents Association (NRA) addressed the Committee noting that the restaurant was located in a substantially residential area. Mr Sherling commented that the discussion so far had addressed some of his initial concerns. Members of the NRA did not object to the sale of alcohol with a meal but were concerned about the potential for noise, disturbance and anti-social behaviour at the premises and requested the following:

- All alcohol to be consumed exclusively inside as part of a meal – not outside the premises;
- The licence end time to be 23:00 hours rather than 23:30;
- Certainty that music would not be audible outside the premises.

Mr Damian Victory, local resident, addressed the Committee expressing concerns regarding the potential for parking stress, noise and disturbance to local residents. Mr Victory stated that, even with the restaurant door closed, noise would be audible outside. It was suggested that serving alcohol until 23:15 would encourage irresponsible drinking. Mr Victory noted that a large number of children lived in the area who had to get up to go to school and felt that the proposed daily closing time (23:30 hours) was unacceptably late. Mr Victory was disappointed that he had received no notification of the application and had not been contacted by his Ward Councillors.

Discussion

- In response to Members' questions, the Applicant confirmed that the business would operate as a takeaway and family restaurant. Customers would be encouraged to leave quietly and CCTV cameras would be in operation. Very few people would be permitted to smoke outside the premises and alcohol would have to be consumed inside. Mr Sukhadiya would provide his contact details to local residents;
- The Applicant had hoped that customers could play their own music and take part in karaoke on special occasions. It was explained that, under the terms of the Live Music Act 2012, unamplified music only was permitted between 08:00 and 23:00. No application had been made for a live music licence from 23:00 - 23:30;
- It was not possible to create an alternative smoking area as the restaurant did not own the alleyway alongside it and there was no customer access from the alleyway to the area at the rear of the restaurant;
- In terms of fire precautions, the Applicant confirmed that customers would exit via the front entrance and kitchen staff would exit at the back in case of emergency;
- Members sought clarification as to measures to be taken to avoid customers congregating outside the restaurant whilst waiting for taxis to arrive. The Applicant confirmed that he would make contact with local taxi firms and would book taxis for customers if requested to do so. It was noted that many customers used the services of Uber and therefore would wait inside until the taxi driver texted them;

- The Applicant confirmed that deliveries would be occurring as part of the business model;
- It was confirmed that there would be no deliveries to, the restaurant after 18:00 hours.

Closing remarks

Mr Victory, local resident, reiterated his concerns regarding noise management and the proposed times for closing / last orders at the restaurant.

Mr Sherling requested that additional conditions be imposed prohibiting customers from taking drinks outside and ensuring that noise from the restaurant would be inaudible outside the premises.

There were no further submissions from the Licensing Authority or from the Licensing Officer.

The Applicant's representative noted that he and the Applicant were in full agreement with all the conditions proposed. A further condition was suggested restricting the number of smokers permitted and prohibiting drinks from being taken outside the premises. It was confirmed that the use of a noise limiter would be explored further and contact numbers for taxis would be made readily available to customers. Mr Panchal reiterated that the Applicant had no connection to the previous owner.

The Applicant commented that he would try his best to limit noise at the restaurant so as not to cause a nuisance to local residents.

Committee Deliberation

All parties were asked to leave the virtual meeting. The Sub-Committee would deliberate and considered its decision. The decision would be announced on the Council's Youtube Channel, and would be communicated in writing to all interested parties.

Considerations

The Sub-Committee noted the Applicant and his Agent's agreement with proposed conditions suggested by the Responsible Licensing Authority, and appreciated their additional voluntary conditions regarding Challenge 25, restricted number of customers smoking outside, and no drinks to be consumed outside the venue.

The Sub-Committee welcomed the changes that were proposed by the Applicant/Agent, and their eagerness to satisfy the licensing objectives. The Sub-Committee considered all the representations. The Applicant asserted that he wished to be a good neighbour as far as local residents were concerned.

The Sub-Committee was informed by the Agent for the Applicant that the business would be operating as a sit down restaurant with alcohol provided at the dinner table; but by the Applicant that he intended to have sales at the bar for customers dropping in to consume a drink, including alcohol. The Applicant subsequently withdrew his statement and confirmed that the position as stated by the Agent was correct.

The Sub-Committee read and heard evidence from all parties, including the local resident association and neighbouring residents about the impact of the noise levels they suffered from the previous business, and strong requests to protect their homes

given that the business would be operating 7 days a week until late in a predominately residential neighbourhood; whilst also balancing this with the need for the business activity to thrive.

The Sub-Committee understood that the Live Music Act 2012, deregulated the time restriction on live music, and that unamplified music, between 8 am – 11 pm was permitted. The Applicant confirmed recorded music would cease at 23:00hrs, and that there was no further request to consider a live music licence thereafter.

The Committee wanted the business to thrive, and felt that reasonable conditions to address the music, customer noise, business equipment, and deliveries would assist the raised licensing objective concerns, and allow the business to run without complaints.

It was felt appropriate to not grant terminal hours for late night refreshment (23:00hrs - 23:30hrs) at this time or any continued sale of alcohol and opening hours past 23:00 hrs, due to the close proximity of residential properties above the business premises and considerable concerns about noise nuisance.

The Committee was aware that the Applicant was the DPS, and they wanted to know that the licensable activities would be adequately managed in his absence, given that he was a multiple business owner and a person with other responsibilities.

The Premises Licence Holder was recommended to liaise with the local residents, and have open communication to resolve any issues informally.

The Premises Licence Holder was also recommended to consider changing the front doors to double doors, to assist with the reduction of noise.

The Decision

The Sub-Committee has considered all the relevant evidence made available to it and in doing so has taken into account the Licensing Objectives, Licensing Act 2003, Hillingdon's Licensing Policy - paragraph 9.42 - 9.44, 10.10, 10.13, 10.15, 14.51 - 14.52, 17.1-17.3, 22.1 - 22.5, and has had due regard to s.149 Equality Act 2010, and the revised Guidance issued by the Secretary of State under Section 182 of the Act.

The decision of the Sub-Committee is to GRANT the application for a Premises Licence subject to the following CONDITIONS:

1. The supply of alcohol at the premises shall only be to a person seated and taking a table meal there and for consumption by such a person as ancillary to their meal;
2. The supply of alcohol shall be by waiter or waitress service only;

3. There shall be a Designated Premises Supervisor or Personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol;
4. The Operating Hours for the sale of alcohol and recorded music are from 12:00 hours to 23:00 hours Monday to Sunday. The business opening hours are 12:00 hrs and 23:30 hrs;
5. Patrons must consume alcohol inside the business premises only (not outside);
6. Trading of takeaways by collection or deliveries must cease at 22:30 hrs;
7. No customers can enter or re-enter the premises after 22:30 hrs;
8. The CCTV system shall be maintained in good working order and shall record at all times the premises are open, covering all public areas of the licensed premises, including all public entry and exit points, the street environment in front of the business; and recordings shall be kept for 31 days and be provided to authorised officers of the Council and to the Police on request;
 - i. The CCTV shall be capable of recording a clear facial identification of all persons entering the premises by the main entrance door;
 - ii. A CCTV monitor shall be provided at the bar which has the capability to show images of all the cameras for the information of staff;
 - iii. The CCTV cameras shall continually record while the premises are open to the public and recording shall be kept available and unedited for a minimum of 31 days;
 - iv. No sale of alcohol shall take place when the CCTV system is not fully in good working order; and
 - v. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public and must be able to produce/download/burn CCTV images upon request by a police officer or any authorised officer of the London

Borough of Hillingdon. Any footage must be in a format that can be played back on a standard personal computer or standard DVD player;

9. An incident log shall be kept at the premises and made available on request to an authorised officer of the Council or the Police. It will record the following:
 - (a) all crimes reported to the venue;
 - (b) any complaints received concerning crime and disorder;
 - (c) any incidents of disorder;
 - (d) any faults in the CCTV system;
 - (e) any refusal of the sale of alcohol; and
 - (f) any visit by a relevant authority or emergency service.

10. The Premises Licence Holder shall ensure that the Incident Log Book is checked, signed and dated on a weekly basis by himself or an authorised employee acting in place of the Designated Premises Supervisor;

11. No noise generated on the premises, or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

12. The Premise Licence Holder must put in place controls and equipment within the premises, A sound limiting device located in a separate and remote lockable cabinet from the volume control shall be fitted to any music amplification system and set at a level determined by and to the satisfaction of an ASBET / Environmental Health Officer or equivalent from Hillingdon Borough Council.

13. The operational panel of the noise limiter shall then be secured to the satisfaction of an ASBET / Environmental Health Officer / equivalent or Licensing Authority authorised officer from Hillingdon Borough Council.

14. The keys securing the noise limiter cabinet shall be held by the licence holder or authorised manager only, and shall not be accessed by any other person. The limiter shall not be altered without prior agreement of an ASBET / Environmental Health Officer or equivalent Officer and Licensing Department from Hillingdon Borough Council.

15. Notices will be displayed at the exterior of the premises and at the exit point asking customers to respect the needs of the local community and to leave or use the outside area quietly;
16. Staff will be instructed to assist customers leaving the premises with obtaining taxi bookings and will encourage them to wait inside the premises for the arrival of their taxi;
17. A challenge 25 policy will be in force, where any person looking under the age of 25 shall be asked to prove their age when attempting to purchase alcohol and signs to this effect will be displayed at the premises. The holder of the premises licence shall ensure that every individual, who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol at the premises or from the premises, shall produce identification proving that individual to be 18 years of age or older. The form of identification shall contain their photograph, date of birth and a holographic mark;
18. Any deliveries to the premises and emptying of glass goods shall take place between 9h00 and 18h00;
19. Staff will be trained regarding appropriate steps to uphold the licensing objectives, to prevent underage sales and use the Incident Log Book, within 2 months of beginning employment. Records will be kept of such training, which must be signed and dated by the members of staff who have provided and received that training.
20. The business external back doors shall be kept closed between 7pm and 9am, except for the immediate access and egress of the staff in the performance of their designated duties or to exit in the event of an emergency;
21. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open;
22. Fire safety alarm system shall be installed and in working order at all times;
23. Staff must be trained in respect of evacuation procedures;

24. All refuse shall be kept in waste containers internally and externally to the premises;

25. Staff shall monitor customers smoking outside the premises on a regular basis to ensure patrons do not cause a public nuisance. There is a limit of three customers smoking outside at one time.

Right of Appeal

The Applicant for the Premises Licence or any other person who made relevant representations to the application may appeal against the Council's decision. You must do so in writing within 21 days of being notified of the Council's decision. A fee must be paid to the Magistrates Court and the application sent to the Justice Clerk at the Uxbridge Magistrates Court.

The meeting, which commenced at 10.00 am, closed at 11.50 am.

These are the minutes of the above meeting. For more information on any of the resolutions please contact Democratic Services - 01895 250636 or email: democratic@hillington.gov.uk on . Circulation of these minutes is to Councillors, Officers, the Press and Members of the Public.

The public part of this meeting was filmed live on the Council's YouTube Channel to increase transparency in decision-making, however these minutes remain the official and definitive record of proceedings.