

LICENSING SUB COMMITTEE

13 January 2021

Present: Councillor G Saffery (Chair)
Councillor
Councillors A Dychton and R Martins

Also present: Mr. Puthrasingam Sivashankar, Applicant's legal
representative
Mr. James Duffy, Interested Party
Mr. Hardesh Bhatti, Environmental Health Officer

Officers: Licensing Officer (PS)
Democratic Services Officer
Senior Solicitor

4 **Committee membership/ election of a Chair**

The Democratic Services Officer confirmed that the Sub-Committee would comprise Councillors Dychton, Martins and Saffery.

The Sub-Committee was asked to elect a Chair for the hearing.

RESOLVED –

that Councillor Saffery be elected Chair for this hearing.

5 **Disclosure of interests (if any)**

There were no disclosures of interest.

6 **Licensing Sub Committee Report - Application for a new premises licence**

The Chair welcomed all parties to the hearing and explained the procedure to be followed.

Introduction to the application

The Licensing Officer presented her report to the Sub-Committee, outlining an application for a new premises licence for a restaurant, Green Pitta at 271 - 273 St Albans Road Watford WD24 5BJ.

The Licensing Officer highlighted that she understood that the premises name might have changed to "Greek Pitta". The applicant's legal representative stated that he was not aware of this. Accordingly, it was agreed that the hearing would proceed under the original application title.

In response to a question, the Licensing Officer explained that the nearest residential properties were next door and also a flat directly above the premises.

Representation by Responsible Authority - Environmental Health

The Environmental Health Officer explained that the application would not promote the Licensing Act objective of preventing public nuisance. He went on to explain his concerns regarding noise nuisance from patrons and the smell from the cooking of hot food.

He explained in detail that although, in relation to food, it was only the provision of late night refreshment (after 11pm) that fell within the scope of the Licensing Act, the nuisance from cooking smells applied at any time cooking might take place.

Mr. Sivashankar clarified that the applicant had offered to install an extraction system and the restaurant would not open until after this system had been installed and inspected.

There followed a discussion on a variety of issues.

- Deliveries on Sundays. It was clarified that this referred to deliveries to the restaurant with supplies, not takeaway deliveries from the restaurant.
- The opening hours for Sunday. The end of late night refreshment was later than the opening hours to allow food ordered remotely to be delivered to addresses.
- Friday and Saturday hours would now conclude at midnight rather than 00:30hours.
- Confirmation that although takeaway was still required, it was anticipated this would be ancillary to the main provision of food within the restaurant.

Address by the Interested Party

Mr. James Duffy introduced himself and stated that he owned the flat directly above the premises and that it was a rental property. He thanked the Environmental Health Officer for the comments he had made as they addressed some of his own concerns.

Mr. Duffy added that he was concerned about the storage and removal measures for the rubbish generated by the restaurant. He explained that the previous occupier had stored rubbish below the fire escape for his premises. He expressed concern for the safety of his tenants in the event of a fire.

He asked if there would be additional sound-proofing between the restaurant and the residential premises.

Mr. Sivashankar assured Mr. Duffy that the Fire Service had been consulted and the applicants would discharge their duties correctly to ensure fire safety. He added that sound insulation would be completed prior to the restaurant opening for trade.

There followed a short discussion around noise issues and the relationship between the planning and licensing regimes. The Environmental Health Officer pointed out that, to his knowledge, no consideration had been given to noise breakout. It was this issue that had resulted in his representation.

Address by the Applicant's Legal Representative

Mr. Sivashankar described the application, highlighting that the applicant had made the following amendments:

- Removal of the application for recorded music, leaving only background music.
- Hours for Friday and Saturday had been pulled back to finish half an hour earlier, at midnight.
- The earlier finish on Sundays resulted in late night refreshment not being required.
- Application for recorded music was retained for New Year's Eve until 01:00hrs.

Mr Sivashankar pointed out that the provision of CCTV had been agreed with the Police and reaffirmed that a works condition had been offered to ensure that the cooking fume extraction system would be in place before the restaurant opened, together with other conditions to mitigate any public nuisance. He also confirmed that there would be only a minimal takeaway service.

There followed some questions on the following areas:

- Rubbish collection – full details of the professional rubbish removal company would be provided and when and how this would take place.
- Bin location – the bin storage was marked on the plans.
- Mr. Sivashankar had not dealt with the planning application and was therefore unable to comment on the exact location of the bin storage.

In response to an invitation from the Chair to comment, the Environmental Health Officer stated that he had looked at the refuse disposal and bin siting arrangements. He added that the fire escape issues were of concern and certainly should have been considered. He also expressed his continuing concern that the smell from the kitchen might be a problem, but was assured by Mr. Sivashankar that no cooking would take place until the extraction system had been installed and inspected.

There followed some general questions and answers:

- The sub-committee were assured that the intention was to open the restaurant after the Covid lockdown measures had been eased as the main business was planned as eating in the restaurant and not takeaway.
- Off-sales were only intended to be for limited use, for example where a customer had ordered a takeaway and wanted some alcohol to go with it, or an eat-in customer had not finished their bottle of wine and wanted to take it with them.
- The sub-committee were assured by the applicant's representative that the provision of alcohol was only ancillary to the provision of food.
- The concerns regarding patrons congregating in front of the premises were discussed and assurances given that customers would not be allowed to congregate outside. But this could only be applied to customers not the general public, which was a Police matter.
- Despite live music being exempt from the licensing regime for most of the day, there was not believed to be any intention of substituting the absence of recorded music with live music.

Summary

Each speaker was invited by the Chair to sum up.

On behalf of Environmental Health, the officer confirmed that all his points had been made and he was reassured by the applicant's representative that the restaurant would remain entirely closed for business until the extraction system was installed and inspected.

The Interested Party, Mr Duffy, advised that all his questions had been answered and concerns addressed.

The Applicant's Legal Representative reminded the sub-committee that the request for recorded music had been removed and the hours for Friday, Saturday and Sunday had all been reduced. He assured the sub-committee that the restaurant would not open until the planning requirements were satisfied.

Decision

The Chair advised that the Sub-Committee would retire to consider its decision and that it would be made available to all parties within five working days.

RESOLVED –

Having heard evidence from the applicant, responsible authority and interested party, the Sub-Committee was minded to grant the application, as amended.

This amendment included:

- the deletion of recorded music,
- the hours for late night refreshment and Sunday, to be amended to 22.30 hours,
- New Year's Eve non-standard timing as amended.

Condition proposed by the application at paragraph 7.2 was amended to read- A works condition: the premises will not open until conditions 2 and 3 of the planning permission are satisfied.

This application was granted, subject to conditions agreed with the Police and the conditions agreed by the applicant.

In reaching this decision, the Sub-Committee took into account the provisions of the Licensing Act 2003, the Secretary of State's guidance and the council's statement of licensing policy 2018.

The applicant was advised to liaise with the interested party, environmental health and the planning department, in deciding the location for the extractor system and bin storage.

Chair

The Meeting started at 10.30 am
and finished at 11.40 am