

DRAFT MINUTES OF THE MEETING OF LICENSING SUB COMMITTEE A

TUESDAY, 13 JULY 2021

THIS MEETING WAS LIVE STREAMED AND CAN BE VIEWED AT:

<https://youtu.be/rM7GpUFAgR4>

Councillors Present: Cllr Brian Bell (Chair), Cllr Sophie Conway and Gilbert Smyth.

Officers in Attendance: Amanda Nauth - Licensing and Corporate Lawyer
Channing Riviere - Principal Licensing Officer
Suba Sriramana - Acting Principal Licensing Officer
Rabiya Khatun- Governance Services Officer

Also in Attendance: Mr Berke Ozer - Applicant
PC Atkins Metropolitan Police Service

1. Election of Chair

1.1 Councillor Bell was duly elected to Chair the meeting.

2. Apologies for Absence

2.1 Apologies for absence were received from Councillor Wrout.

3. Declarations of Interest

3.1 There were no declarations of interest.

4. Licensing Sub Committee Hearing Procedure

4.1 The hearing procedure as set out in the agenda pack was explained to all participants.

5. Minutes of the Previous Meeting

5.1 There were no minutes for consideration.

6. Application for a New Premises Licence: The Doner Store, 468 Kingsland Road, London, E8 4AE

- 6.1 Subangini Sriramana, Acting Principal Licensing Officer introduced the report in respect of an application for a premises licence made by The Doner Store. It was noted that representations remained from the Police and Licensing Authority.
- 6.2 Mr Berke Ozer, the applicant, made submissions speaking in support of the application, highlighting the following:
- He operated a small takeaway business and wanted to sell light beer with the food to increase business revenue;
 - He was proposing to supply late night refreshment as below but willing to reduce the hours to address the concerns raised:
Sunday- Thursday 23:00-02:00
Friday to Saturday 23:00-04:00
Supply of alcohol on and off premises
Sunday- Thursday 11:00-02:00
Friday to Saturday 11:00-04:00
 - Fridays and Saturdays were busy trading days and it would not be financially viable to close at midnight;
 - He was not aware that the premises are located within the Dalston Special Policy Area (SPA) and would be willing to cooperate with the responsible authorities and amend the proposed licensable hours;
 - He had been granted a pavement licence for the tables and chairs at the front of the premises until 22.30 hours;
 - There was a kebab shop within the vicinity that had a premises licence until 03.00 hours;
 - The measures to be implemented at the premises including 24 hour CCTV, no on-sales from 22.30 hours and full-time cleaner to clear litter inside and outside premises would minimise public and noise nuisance, pollution and disorder; and
 - There was a demand from customers for later opening hours;
- 6.3 In response to questions seeking further clarification regarding the proposed hours and cumulative impact, Mr Ozer confirmed that he had permission to have the four tables and chairs in the external area until 22.30 hours and a capacity of 10 persons. Mr Ozer stated that in order to minimise the cumulative impact and public nuisance he would be willing to reduce the supply of alcohol hours in the weekdays from 02.00 to 01.00 hours and weekends from 04.00 to 03.00 hours. There would be no seating inside the premises as the business operated a grab and go takeaway food service. There would also be a full-time cleaner employed to clear litter inside and outside the premises.
- 6.4 Mr Channing Riviere, Licensing Authority representative, made submissions as set out in Appendix B2 and objected to the application on the grounds of public nuisance, the premises being located within the Dalston SPA and the Council's LP3 Core Hours. His primary concerns related to the proposed hours exceeding those of the core hours and the applicant having not demonstrated that the later hours of alcohol sales and consumption would not add to the negative cumulative impact in the SPA, adversely impacting on the residents living within the vicinity of the premises. He highlighted that during the

consultation period, the applicant had agreed two additional conditions to address the concerns of alcohol consumption which included alcohol being supplied ancillary to a meal and off-sales alcohol to be served in a sealed container but the applicant had yet to reduce the hours in compliance with the core hours.

- 6.5 PC Atkins, Metropolitan Police Service representative, made submissions as set out in Appendix B1 and objected to the application on the grounds of the prevention of crime and disorder, prevention of public nuisance, public safety, the premises being located within the Dalston SPA and the hours exceeding those in the Council's LP4 Supply of Alcohol. His primary concerns related to the lack of measures to minimise the issues of cumulative impact experienced in the Dalston SPA, people remaining in the area until late night consuming more alcohol and congregating outside the premises which would result in a rise in public nuisance, anti-social behaviour, street drinking, crime and disorder in the area, and also no defined seating area for off-sales.
- 6.6 In the absence of any Other Persons at the hearing, the sub-committee considered and noted the seven written representations made at Appendices C1-C7.
- 6.7 Ms Amanda Nauth, Licensing and Corporate Lawyer, referred the applicant to the core hours set out in LP3 within the agenda pack. The sub-committee emphasised that each application was determined on its own merits but that Mr Ozer would have to demonstrate good reasons why they should overrule the policy.
- 6.8 The sub-committee requested clarity regarding the additional conditions proposed by Licensing and Mr Ozer confirmed that he had agreed to these two conditions as he did not intend to operate the premises as a bar.
- 6.9 Following all submissions, the Chair led a discussion of the application and the responses were as follows:
- To minimise disruption from the delivery vehicles, Mr Ozer stated that he would only allow the driver to come inside the premises when the order was ready for delivery;
 - Mr Ozer stated that it would take the chef approximately five minutes to have the food ready from the time an order had been placed, which would reduce the number of people queueing and congregating outside the premises and therefore minimising any nuisance or disorder. He was also willing to employ an SIA door supervisor to disperse any crowds in the external area;
 - Mr Ozer indicated that he would be willing to accept a condition to limit the sales of alcohol to a maximum of 5% ABV;
 - Mr Riviere provided examples of the some exceptional circumstances within a SPA that could be taken into consideration by the sub-committee;
 - Mr Riviere and PC Atkins indicated that if the supply of alcohol were withdrawn from the application, they would still express concerns that the late hours would exacerbate the public nuisance for residents and

cumulative impact in the area as more drinkers would be encouraged to remain in the area until the early hours, patrons and drivers would congregate outside the premises, and there was also the issue of noise from delivery vehicles;

- To alleviate the concerns expressed by the responsible authorities, Mr Ozer proposed Friday to Saturday the supply of alcohol on and off premises until 23.00 hours and late night refreshment until 03.00 hours;
- Mr Ozer indicated that he could not reduce the late night refreshment hours in line with the core hours as this would be financially unviable for the business during the pandemic as the business had suffered from Covid restrictions but proposed to reduce the hours during the weekdays until 01.00 hours and weekends until 02.00 hours in order to allay any concerns;
- Mr Ozer stated that the proposed additional conditions would prevent any cumulative impact in the area and that residents were aware of Dalston being a vibrant area; and
- Mr Ozer emphasised that he was a good operator and had operated under a TEN until 01.00 hours without any issues.

6.10 In response to a question from a Member regarding disturbance, Mr Ozer replied that he currently had a maximum of 5 people on the premises and the sub-committee could put a condition limiting capacity to 5 persons. It was emphasised that this was a small kebab shop and that it would take approximately 20 minutes to serve five customers and any intoxicated people would not be served.

6.11 Cllr Smyth suggested he might be more amenable to the following hours for late night refreshment and Mr Ozer agreed to this and the additional conditions:

Monday - Thursday 00.30 hours

Friday - Saturday 01.30 hours

Sunday 22.30 hours

6.12 During closing statements, the Licensing Authority and Police retained their objections to the application having felt they had not heard anything from the applicant to allay their concerns, and in particular the proposed hours exceeding the core hours which would result in a negative cumulative impact on the area.

6.13 Mr Ozer urged the sub-committee to approve the application and believed the amended hours in conjunction with the proposed conditions would minimise any cumulative impact and public nuisance in the area.

RESOLVED:

The decision

The Licensing sub-committee in considering this decision from the information presented to it within the report and at the hearing today has determined that having regard to the promotion of all the licensing objectives:

- The prevention of crime and disorder;
- Public safety;
- Prevention of public nuisance;
- The protection of children from harm;

the application for a premises licence has been refused in accordance with Licensing Policies LP1, LP2, LP3, LP4 and LP10 within the Council's Statement of Licensing Policy.

Reasons for the decision

The sub-committee took into consideration the representations of the Metropolitan Police Service who objected to this application due the impact of the late hours on the Dalston SPA. The Metropolitan Police Service made submissions that this application could lead to drinkers staying in the area later at night and the associated anti-social behaviour. The police's representations were against any hours which would mean that people would have more access to alcohol, but particularly late at night.

The sub-committee also heard from the Licensing Authority that the proposed hours could have a negative impact on residential properties close to the premises, and were contrary to Policy LP3. Any additional alcohol sales would exacerbate the effects of consumption in the area, and have an impact on the Dalston SPA.

The sub-committee took into consideration the amended hours and potential conditions discussed with the applicant during the hearing. However, these did not go far enough to mitigate the negative impact late at night. It was noted that the applicant was not prepared to operate under core hours Policy LP3.

The sub-committee also took into consideration seven objections received from local residents confirming their objections to the late night hours and the impact of noise on families if the premises operated to late hours every day. The sub-committee agreed these could give rise to nuisance in the area, and anti-social behaviour affecting those residential properties situated close to the premises.

The sub-committee sympathised with the applicant's circumstances, and the impact on the premises of the current temporary Covid-19 restrictions during the pandemic. However, the applicant has not been able to demonstrate adequate exceptional circumstances, to justify the proposed hours, and the application being approved.

The applicant failed to demonstrate how this application would not add to the cumulative impact within the Dalston SPA. The premises are located in the Dalston SPA and therefore are subject to policy LP10. The issue of financial "need" cannot override the licensing objectives in determining any application.

The sub-committee felt that by not granting this application it would help prevent anti-social behaviour, resulting from more people coming into the area, consuming

alcohol, and staying in the area for longer. These would contribute to increasing public nuisance, and to crime and disorder, in the Dalston SPA.

The sub-committee determines each application on its merits. The sub-committee believed that the licensing objectives could not be promoted by granting this application within the Dalston SPA, and as such believed it was appropriate to refuse the application in its entirety.

7. Application for a New Premises Licence: Balls, Basement, Ground floor, First floor, 333 Old Street, London EC1V 9LE

7.1 The application was determined under delegated authority and withdrawn from the agenda.

8. Temporary Event Notices

8.1 The temporary event notices were withdrawn from the agenda.

End of Meeting

Duration of Meeting: 19.00-20.20

Chairperson: Cllr Brian Bell

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