

BIRMINGHAM CITY COUNCIL

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| LICENSING SUB-COMMITTEE B 3 MAY2022 |
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 3 MAY 2022 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Diane Donaldson in the Chair;

Councillors Mike Sharpe and Adam Higgs.

ALSO PRESENT

Bhapinder Nandhra – Licensing Section
Joanne Swampillai – Legal Services
Katy Townshend – Committee Services

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

1/030522 **NOTICE OF RECORDING/WEBCAST**

The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

2/030522 **DECLARATION OF INTERESTS**

Members were reminded that they must declare all relevant and pecuniary and non-pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

There were no interests declared.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/030522 No apologies were submitted.

**LICENSING ACT 2003 TEMPORARY EVENT NOTICE – TAQIS GRILL, UNIT A,
272 MONTGOMERY STREET, SPARKBROOK, BIRMINGHAM, B11 1EN.**

On Behalf of the Applicant

Salah Bakeel Abdul-Rahman – Applicant
Russell George – Agent

On behalf of those making representations

Martin Key – EH (Environmental Health)

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The Chairman introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider. No preliminary points were raised.

The Chairman then explained the hearing procedure prior to inviting the Licensing Officer, Bhupinder Nandhra, to outline the report.

The Chair invited the applicant to make their submission and Russell George, on behalf of the applicant made the following statements: -

- a) That TENs were applied for when the premises first opened and there were no complaints in the outside area.
- b) The main entrance is not on the main road.
- c) They would keep nuisance to a decent level.
- d) The local area was not highly residential.
- e) The customers were usually religious people who didn't drink.
- f) They had done risk assessments and spoken to West Midlands Police who downgraded the times due to concerns.
- g) The premises would close at 1am but they would be allowed an extra hour for takeout drivers.
- h) The premises was clean inside and outside.
- i) They understood EH concerns but it would be interesting to see if it caused any issues if the TEN was granted.
- j) They would be applying for a full premises licence.

- k) 11pm-2am were the busiest times at the premises.

Martin Key, EH was invited to make his case and made the following statements:

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- a) That the 4am termination hour had been adjusted but he had assessed the application on what he was given.
- b) The premises supplied hot food; fried and grilled products.
- c) He had tried to contact the applicant by telephone and email but had no response.
- d) The risk assessments had not been submitted to EH.
- e) He disagreed that the area was industrial.
- f) The premises didn't have any planning consent for food.
- g) The area to the South of the premises was residential. The nearest residential was 40 meters away.
- h) The industrial area was mainly operated in the day time.
- i) Nothing else in the area operated that late at night.
- j) He was concerned that it was out of character.
- k) The hours made no impact as the concerns were noise and odour impacts beyond 11pm.
- l) They would support midnight, but nothing else.
- m) The representation was about trying to avoid problems.
- n) It failed to fulfil the licensing objective of public nuisance.

The Chair invited Martin Key, EH to make a closing submission and he made the following statements: -

- The application would have an adverse impact on the licensing objective.
- The premises licence was being reviewed.
- Operating after 11pm was out of character and that would lead to public nuisance.

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Russell George on behalf of the applicant made the following closing statements:

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- That everything would operate from the rear so it wouldn't cause problems.
- A TEN was a good way to see if it would cause a problem.
- They hadn't received any complaints.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the decision of the Sub-Committee was announced and a copy of that decision was sent to all parties as follows;

4/030522

RESOLVED:-

That, having considered the objection notice from West Midlands Police in respect of the temporary event notice as submitted by Salah Bakeel Abdul-Rahman, the premises user, for an event to be held on 8 May 2022 – 14 May 2022 at Taqi's Grill, Unit A, 272 Montgomery Business Park, 272 Montgomery Street, Sparkbrook, Birmingham B11 1EN, this Sub-Committee determines that a Counter Notice be issued under Section 105 of the Licensing Act 2003.

The Sub-Committee's reason for issuing a Counter Notice is to prevent the temporary event from taking place, in order to uphold the prevention of public nuisance licensing objective in the Act.

The applicant attended the meeting and confirmed via his representative that he had spoken to West Midlands Police in advance of the meeting, and as a result of those discussions had brought forward the terminal hour for licensable activities. However, regardless of this, the Environmental Health department of the City Council had maintained its objection on the grounds of public nuisance, and an Environmental Health officer attended the meeting to address the Sub-Committee.

The applicant confirmed via his representative that an application for a full premises licence had been submitted; in the meantime the proposal was to operate under a series of temporary event notices. Operation as a hot food takeaway had started, and the representative observed that there had been "no complaints from those outside the area". Following discussions with Police and the shortening of the hours, the plan was that late night takeaways would be served through a hatch window. The entrance was not on the main road; the entrance was at the rear, into an industrial estate. The premises did not offer alcohol, as the religion of the clientele did not permit them to drink alcohol. There was also no recorded music. There would be a steward outside, and litter picking patrols. It was a local community business and risk assessments had been done.

The applicant wanted to allay the concerns of the Environmental Health department, and believed that the shortened hours were satisfactory to enable safe operation. He had noted that other local businesses operated to 02.00

hours, and considered that if the temporary event were to be permitted, it would give the premises a chance to show that it was capable of upholding the licensing objectives.

The Environmental Health officer stated that the applicant had not responded to emails; the officer also remarked that he had not been shown any risk assessments. He disagreed that the area was predominantly “industrial”, observing that residential properties were situated less than 50 meters away; nor was it a late night entertainment area. A banqueting suite in the industrial estate was licensed to shorter hours.

The objection, made on the grounds of public nuisance, was that the operation would create odour and noise after 23.00 hours - the extractor fan in particular would create noise to 03.00 hours. There was also a likelihood of noise from vehicles. The hatch window, through which late-night takeaways would be served, was on the main road facing residential properties. Operation as a late-night takeaway was out of character for the local area. It was a small premises which would have an adverse impact on residential properties late at night.

The applicant via his representative observed that this style of operation was not totally out of character for the area. He considered that it was a mainly commercial area, with a garage and some shops, and repeated that other businesses operated to 02.00 hours. Regarding the hatch window, it could be moved to the rear. In summary the applicant’s representative felt that temporary events would be a good way to see if there were problems.

The Environmental Health officer showed the Sub-Committee an aerial view map (via Google Maps) which showed the proximity of residential housing.

Although due regard was given to the premises user’s representation, the Sub-Committee was not confident that the premises user could overcome the concerns expressed by Environmental Health relating to the potential for public nuisance – specifically, odour and noise late at night. There would be a direct impact on neighbouring residents; the Members observed that housing was situated in close proximity (via Google Maps). The Sub-Committee was of the opinion that allowing the events to proceed would cause unnecessary nuisance to neighbouring residents at a very late hour of the night.

The Sub-Committee has had regard to the evidence, argument and submissions placed before it, in addition to the Report, the Guidance issued by the Home Office under section 182 of the Licensing Act 2003, and its own Statement of Licensing Policy. The Sub-Committee is satisfied that on the balance of probabilities public nuisance would arise in connection with the proposed event at the premises, due to its location close to residential properties, for the reasons given by Environmental Health. The Sub-Committee therefore resolves to reject the temporary event notices in order to ensure the promotion of the prevention of public nuisance licensing objective in the Act.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates’ Court, such an appeal to be made within

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twenty-one days of the date of notification of the decision. No appeal may be brought later than five working days before the day on which the event period specified in the Temporary Event Notice begins.

The meeting ended at 1033.

Chairman.....