

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Tuesday 20 December 2022 at 10.00 am at Online/Virtual: please contact [andrew.weir@southwark.gov.uk](mailto:andrew.weir@southwark.gov.uk) for a link to the meeting and the instructions for joining the online meeting

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**PRESENT:** Councillor Renata Hamvas (Chair)  
Councillor Hargrove (Reserve)  
Councillor Margy Newens

**OTHER  
AUTHORITIES  
PRESENT:** P.C Ian Clements, Metropolitan Police Service

**OFFICER  
SUPPORT:** Toyin Calfos, legal officer  
Jayne Tear, licensing officer  
Andrew Weir, constitutional officer

### 1. APOLOGIES

This was a virtual licensing sub-committee meeting.

The chair explained to the participants and observers how the virtual meeting would run. Everyone then introduced themselves.

Apologies were received from Councillor Kath Whittam. Councillor Barrie Hargrove was in attendance as the reserve member.

### 2. CONFIRMATION OF VOTING MEMBERS

The voting members were confirmed verbally, one at a time.

**3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT**

There were no late or urgent items of business.

**4. DISCLOSURE OF INTERESTS AND DISPENSATIONS**

There were none.

**5. LICENSING ACT 2003: SHAWARMA HUT, 292B WALWORTH ROAD, LONDON SE17 2TE**

The licensing officer presented their report. Members had questions for the licensing officer.

The applicant and their representative addressed the sub-committee. Members had questions for the applicant and their representative.

The meeting adjourned at 11.14am for a comfort break. The meeting reconvened at 11.21am.

The Metropolitan Police Service officer, objecting to the application addressed the sub-committee. Members had no questions for the police officer.

All parties were given up to five minutes for summing up.

The meeting adjourned at 12.06pm for the sub-committee to consider its decision.

The meeting reconvened at 12.50pm and the chair advised everyone of the decision.

**RESOLVED:**

That the application made by Shawarma Hut Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003, in respect of the premises known as Shawarma Hut, 292B Walworth Road, London SE17 2TE, be refused.

**Reasons**

In reaching its decision, the sub-committee had regard to all of the relevant considerations and the four licensing objectives and considered that its decision was appropriate and proportionate.

The sub-committee heard from the licensing officer who stated that the applicant applied for a new premises licence. The applicant applied to sell alcohol on and off the premises, Monday to Sunday from 12:00 noon to 22:30, to provide late night

refreshment indoors and outdoors, on Monday to Sunday from 23:00 to 05:00 and open Monday to Sunday from 11:00 to 05:00.

The officer confirmed that the application was not in a cumulative impact area but was in the town centre.

The application had received two objections from two of the responsible authorities, namely the Metropolitan Police Service (the police) and trading standards. After the applicant agreed to conditions put forward by trading standards, conciliation was achieved with trading standards.

The officer went on to explain that a number of conditions put forward by the police had initially been agreed, leading to the withdrawal of the police objection. However, that agreement was set aside in its entirety by applicant, who then took issue with the conditions that the premises should not open at any time when the CCTV is not operating correctly, that customers should not use the outside area after 22:00 with the exception of up to six people wishing to smoke and, that all off sales should only be sold to persons purchasing a substantial takeaway meal and consumption should be away from the premises. As an agreement could not be reached, the police re-instated their objections.

The sub-committee then heard from the applicant. He stated that the premises is a Lebanese restaurant where all the food is made freshly on the premises, with care. He said that his head chef would butcher, marinate and cook the meats on the premises. He told the sub-committee he had acquired a trade mark for the restaurant. He explained that he got the premises in June 2019 and had worked very hard and had invested a lot of money, to turn the premises into a very nice establishment. He said that he started trading during the Covid-19 pandemic and the restaurant has become a popular destination for families and professionals. He confirmed that the current closing time for the restaurant is 23:00.

He explained that his focus for the restaurant is the quality of the food, the good value for money, the service and the design of the shop. He mentioned that he had many more good ideas for the restaurant but, it had become very expensive to run with the increases in utility bills. He said that he applied for the licence as many customers had asked for an alcoholic beverage to be served with their meal and that he intended to sell and supply commercial and specialist Lebanese beers and wines as part of the menu. He emphasised that his establishment is a restaurant and not a bar, and stated that the sale of alcohol coupled with the extended hours could increase his turnover by more than 30%. He went on to explain that there would also be a delivery service available to patrons during business hours.

The applicant stated that he felt the limit of six people who wished to smoke on the terrace, after 22:00 would be bad for business. He said his customers were respectful and quiet and that the area was covered by an awning which created a private space. On that basis, he did not feel he could agree a condition limiting the number of people on the terrace after 22:00. He felt that the premises should be allowed to open until 05:00 as other premises nearby were also opened at that

time. He could not agree to customers not using the inside seating area between 01:00 and 05:00 because his customer were quiet and he had never had a complaint about anti-social behaviour emanating from his premises.

The applicant asked for clarification as to the circumstances when he would have to close his premises in the event of CCTV failure. The officer from the police explained that he would be in technical breach of his licence should he continue to open his premises when the CCTV was not working correctly. The applicant explained to the committee that he had always been co-operative with the police and had assisted them whenever he had been requested to do so. He said he assisted the police for issues not relating to his premises, where his CCTV had been requested. The applicant was concerned about a potential breach in the event his CCTV failed, and therefore did not want to agree to this condition.

The applicant went on to state that he did not want a condition imposed which required the sale of alcohol to be accompanied with a sale of a substantial meal as he did not want to limit his income stream. He felt it would be important for the business that he be allowed to make on and off sales of alcohol without a sale of a substantial meal.

The sub-committee explained the closing times policy to the applicant and then asked him what he thought would be an acceptable time to close the outside seating area. The applicant stated that he would be willing to close the outside seating area at 02:00 but wanted the premises to remain open until 05:00. He stated that he did not see the harm in allowing patrons to use the internal seating area until closing, if the customer wanted to do so. He explained that his customers were very quiet and that it would be harmful to the business to disallow patrons to sit.

The applicant accepted that there was a block of residential flats directly above the premises, which is situated on the ground floor. It was explained by the sub-committee that none of the other surrounding premises were permitted to use their outside seating areas after 22:00. The applicant responded by saying his customers are very quiet and respectful, that he had not had any issues in the past with noise and he would not be serving alcohol after 22:30. He said noise would not be an issue as his premises is food led and is not a bar or a nightclub.

The applicant was asked how his application addressed the four licensing objectives. The applicant stated that he couldn't recall the licensing objectives but remembered that that one concerned the protection of children and deferred the question to his advisor. He went on to say that he had addressed the licensing objectives in his application. The applicant then asked his advisor to respond to the question.

The advisor confirmed that he was the applicant's interior designer and did not have a background in licensing. The advisor stated that they would be willing to employ a doorman and that children under the age of 18 would have to be accompanied by a family member between 23:00 to 05:00.

The applicant and his agent both confirmed that they were aware of Southwark's statement of licensing policy 2021-2026 (the policy).

The applicant was informed of the appropriate opening hours for restaurants in the area as stipulated in the licensing policy. He was asked to explain why he wanted opening hours that went beyond the policy. The applicant said that it would be financially beneficial to the business. He said he had asked for hours beyond the policy as other establishments nearby were opened until the early hours of the morning and their opening times also went outside the policy hours. It was explained to the applicant that those businesses had been granted licences prior to the Licensing Act 2003 and applications made after the Act came into force, are governed by the Act and granted in line with policy. The applicant responded by saying he did not think it was reasonable to close the external seating area at 22:00.

The applicant was informed that financial consideration for the business could not be taken into account by the sub-committee.

The applicant was informed of Southwark's commitment to reduce the use of single use plastics. In response, the applicant stated that he wasn't sure if the containers he used were made out of plastic but preferred the plastic containers for food packaging as they tended not to leak as much as the cardboard alternative. He stated that he had tried previously to use greener packaging in the form of cardboard but found the packaging to be ineffective.

Whilst he wasn't sure whether he was currently using plastic containers, he stated that the containers he uses could be washed so therefore he did not believe they were single use. He went on to confirm that he also used the metal containers with the cardboard lids. He stated that he got a lot of complaints from the customers when he was using the bio degradable packaging and felt that the plastic type containers were better. The applicant did not want to give an undertaking to reduce the use of single use plastics.

The sub-committee heard from the police. The officer stated the applicant had initially agreed to a number of conditions, but then changed his mind. This rendered the application to remain substantially outside the policy, in terms of opening and closing times and the use of the outside and internal spaces.

The police officer stated that there were a number of issues pertaining to the application that remained unresolved including the opening of the premises during CCTV failure. He stated that despite the premises being directly under a number of flats, the applicant did not offer any conditions that would mitigate noise escape or nuisance that would be caused by patrons using the outside seating area beyond 22:00 or, the premises being opened until 05:00 everyday.

He recommended that should the application be granted, it should be brought into line with the policy closing hours of 00:00 Sunday to Thursday and 01:00 Friday to Saturday. He also noted that the applicant had not agreed to a condition where

alcohol should only be served with a substantial meal and was concerned about how checks would be carried out to ensure alcohol brought via an app was not being sold to children. The officer went on to state that the applicant had not agreed to the condition put forward by his agent during the meeting.

In summing up the applicant stated that his premises did not have an issue with anti-social behaviour or noise. He did not accept that his premises could cause a noise nuisance, stating that his customers are quiet. He also said he did not believe the delivery drivers would cause a noise nuisance as they parked nearby and would walk to the premises to pick up orders. He concluded by saying he would be willing to close the external seating area at 01:00 and the premises at 05:00

The licensing sub-committee took the view that the applicant would have benefited from obtaining advice from a licensing professional and noted the applicant's reluctance to bring his application in line with policy. The sub-committee were very concerned that the hours applied for, went far beyond the hours prescribed in the policy without good reason.

The sub-committee formed the view that the applicant had failed to appreciate the potential nuisance that would be caused to nearby residents by the extended opening hours of his premises. The sub-committee had concerns that applicant had not considered, volunteered or was willing to agree to any conditions which would mitigate the noise nuisance for residents. The sub-committee noted that there was a block of flats situated directly above the premises and the applicant failed to grasp the patrons using the terrace would likely cause a disturbance to them.

The licensing sub-committee was not persuaded that granting a licence with stringent conditions would promote the licensing objectives on this occasion. Following the meeting, the sub-committee was left with the distinct impression that the applicant had a poor understanding of the licensing objectives and the licensing policy. The sub-committee believed the applicant had not quite grasped why compliance is necessary.

The applicant failed to consider that there are inherent risks of noise nuisance and anti-social behaviour during extended opening hours. The sub-committee were very concerned by the applicant's refusal to entertain any condition which could potentially mitigate these risks. The sub-committee were not impressed by the applicant's stance throughout the meeting, or his unwavering view that the nature of his patrons was a guarantee, that noise nuisance and anti-social behaviour would never occur at his premises. The sub-committee noted that the conditions put forward by the police were reasonable and fairly standard, given the application. The applicant's wholesale rejection, both prior and during the meeting, led the sub-committee to believe that there was an elevated risk that any conditions imposed at this stage would be breached.

The sub-committee also felt that the applicant did not appreciate what was meant by “single use plastics”. The sub-committee formed the view that the applicant would have benefitted if he had invested more time considering the licensing policy.

In reaching its decision, the sub-committee had regard to all of the relevant considerations and the four licensing objectives and considered that its decision was appropriate and proportionate.

### **Appeal rights**

The applicant may appeal against any decision:

- a. To impose conditions on the licence
- b. To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that:

- a. The licence ought not to be been granted; or
- b. That on granting the licence, the licensing authority ought to have imposed different or additional conditions to the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the Magistrates’ Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices’ clerk for the Magistrates’ Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

### **6. LICENSING ACT 2003: UNTYPE LIMITED, UNIT 6 BRIDGEHOUSE COURT, 39 WEBBER STREET, LONDON SE1 8QW**

It was noted that this item had been conciliated prior to the meeting.

The meeting ended at 12.54pm.

**CHAIR:**

**DATED:**