

The London Borough of Hammersmith and Fulham

Decision of the Licensing Sub-Committee

27 July 2022

Selekt Chicken located at 349 North End Road London SW6 1NN (“the Premises”)

The Committee has considered an application for the grant of a premises licence for the provision of late night refreshment both indoors and outdoors under the Licensing Act 2003 (“the Application”).

The Committee has considered the committee papers and the submissions made by all of the parties, both orally and in writing.

In reaching its decision the Committee has had regard to the relevant legislation, the Secretary of State’s Guidance (“Guidance”) and the Authority’s Statement of Licensing Policy (“SLP”).

In summary, the Committee has decided, after taking into account all of the individual circumstances of this case that it is appropriate for the promotion of the licensing objectives of prevention of crime and disorder and prevention of public nuisance to reject the Application.

Procedural Matters

1. On 17 May 2022 Mr Farhad Khan Niaz (the Applicant) submitted the Application for a new premises licence for the provision of late night refreshment as referred below:

The provision of late night refreshment – Both Indoors and Outdoors

Monday to Sunday 23:00 – 03:00

Hours open to public:

Monday to Sunday 10:00 – 03:00

2. The Metropolitan Police did not object to the Application however during the consultation period in order to promote the licensing objectives of prevention of crime and disorder, prevention of public nuisance, protection of children from harm and public safety, they proposed that 6 conditions should be added to the Licence if the committee were minded to approved the application, as well as for the licensable hours and opening hours to be reduced, as referred at page 4 of the Committee report. The Applicant agreed to the Police proposed conditions as well as to amend the licensable hours and opening hours as follows:

The provision of late night refreshment - Both Indoors and Outdoors

Sunday to Wednesday 23:00 – 00:00

Thursday to Saturday 23:00 – 01:00

Hours open to public:

Sunday to Wednesday 10:00 – 00:00

Thursday to Saturday 10:00 – 01:00

3. The Committee considered the Application with amended hours and the additional conditions as suggested above.
4. One representation objecting to the Application was received from the Licensing Authority on the grounds of the prevention of crime and disorder and the prevention of public nuisance. However the Licensing Authority withdrew their objection following the agreement by the Applicant to reduce the licensable and opening hours as well as insertion of additional conditions as proposed by the Police.
5. One representation objecting to the Application was received from the Noise and Nuisance Department on the grounds of the prevention of public nuisance. However, the Noise and Nuisance Department withdrew their objection following the agreement by the Applicant to reduce the licensable and opening hours as well as insertion of additional conditions as proposed by the Police.
6. One representation objecting to the Application was received from Cllr Ben Coleman. He was concerned about the Premises' operating hours as well as noise and nuisance caused to local residents by delivery drivers. Cllr Coleman attended the hearing.
7. One representation objecting to the Application was received from Cllr Trey Campbell-Simon. He was also concerned about the noise associated with the delivery drivers and the operating hours. Cllr Campbell-Simon did not attend the hearing.

8. One representation objecting to the Application was received from Fulham Broadway Ward Panel on the grounds of prevention of public nuisance and prevention of crime and disorder. Sarah Chambers the Chair of Fulham Broadway Ward Panel attended the hearing.
9. One representation objecting to the Application was received from Fulham Ward Panel on the grounds of prevention of public nuisance and prevention of crime and disorder. Annabell Cottrell the Co-Chair of Fulham Ward Panel attended the hearing.
10. One representation objecting to the Application was received from Barclay Road Neighbourhood Watch on the grounds of prevention of public nuisance and prevention of crime and disorder. Charlotte Dexter attended the hearing on behalf of Barclay Road Neighbourhood Watch.
11. Eleven representations objecting to the Application were received by local residents on the grounds of prevention of public nuisance and prevention of crime and disorder. Mark Richardson, local resident attended the hearing. Three of local residents who objected to the Application agreed to be represented at the hearing by Ms Dexter.
12. The Applicant attended the hearing.
13. A supplementary agenda was published on 26 July 2022 with additional comments from local residents which was circulated to all interested parties

Reasons

14. In making its decision the Committee has taken into account all relevant sections of its SLP and the Guidance as well as local knowledge.
15. The Committee was mindful that Section 4 of the Licensing Act 2003 imposes a duty on the Licensing Authority, when carrying out its functions to determine the application with a view to promoting the licensing objectives.
16. The local residents objected to the Application on the grounds of prevention of public nuisance and prevention of crime and disorder. Although the Applicant agreed to reduce the hours for the provision of late night refreshment as proposed by the Metropolitan Police, the objectors were still concerned that the new amended hours from Sunday to Wednesday 23:00 – 00:00 and Thursday to Saturday 23:00 – 01:00 would create noise and nuisance to the local residents as well as anti-social behaviour associated with the premises operating late at night.
17. The Committee took into account the fact the Metropolitan Police suggested two conditions to be added to the licence if granted in order to promote the licensing objective of prevention of crime and disorder as follows:-
 1. High Definition CCTV shall be installed, operated and maintained, at all times that the premises are open for licensable activities and;
 - shall be checked every two weeks to ensure that the system is working properly and that the date and time are correct. A record of these checks, showing the date and

name of the person checking, shall be kept and made available to Police or authorised Council officers on request

- one camera will show a close-up of the entrance to the premises, to capture a clear, full length image of anyone entering.

- shall cover any internal or external area of the premises where licensable activities take place.

- recordings shall be in real time and stored for a minimum period of 31 days with date and time stamping.

- footage shall be provided free of charge to Police or authorised council officer within 24 hours of a request.

- a staff member from the premises that is conversant with the operation of the CCTV system shall be on the premises at all times. This staff member will be able to show police or authorised officers of the Licensing Authority recent data footage with the minimum of delay when requested. This data or footage reproduction shall be almost instantaneous

2. Appropriate signage shall be displayed in prominent positions, informing customers they are being recorded on CCTV

18. Although the Committee noted that these two conditions agreed by the Applicant would promote the licensing objective of prevention of crime and disorder they were not sufficient to deal with local residents' concerns regarding the disturbance caused as a result of the operating hours.

19. Although the Committee noted that Policy 3 of the Council's statement of licensing policy suggests closing time for provision of late night refreshment to 00:00 it was the Committee's considered opinion that if granted the licensed activity was likely to create more public nuisance and anti-social behaviour caused by customers and delivery drivers collecting deliveries from the licensed premises. It was the Committee's considered opinion that this would have an adverse impact on local residents and the promotion of licensing objective of prevention of public nuisance and prevention of crime and disorder.

20. The Committee took into account the objectors concerns regarding the noise and nuisance caused by delivery vehicles late at night as well as the noise created by delivery drivers who will congregate at the Premises waiting to collect food. The Committee heard that the area is already suffering from noise and nuisance caused by large numbers of delivery and dispatch motorbikes and that granting of this licence will have a negative impact and will add to the noise.

21. The Committee took into account the fact that Police proposed 4 conditions to be added to the Licence which would deal with the concerns of the objectors regarding the noise generated by delivery vehicles and drivers late at night as referred below. It also noted that the Licensing Authority and Noise and Nuisance Department withdrew their representations based on the Applicant's agreement to add these conditions to the Licence if granted. These conditions were:

1. Signs shall be prominently displayed in the outside area reminding patrons that there are residents living nearby and instructing them to respect neighbours and to conduct their behaviour accordingly.
2. Notices shall be prominently displayed at all exits used by delivery drivers requesting them to respect the needs of local residents and leave the area quietly
3. After 23:00, drivers shall wait inside the premises between deliveries/for deliveries

4. Delivery drivers/riders will be given clear, written instructions to use their vehicles in a responsible manner so as to not cause nuisance to any residents or generally outside the licensed premises; not to leave engines running when the vehicle is parked; and not to obstruct the highway. The licence holder will positively encourage delivery drivers/riders to use quieter vehicles that are less likely to cause a nuisance such as bicycle
22. The Committee heard that the Applicant will use third party delivery drivers for distribution of take away orders . It was the Committee's considered opinion that condition 4 proposed by the Police as referred at paragraph 21 above was not appropriate or enforceable as it would not be possible for the Applicant to encourage third party companies to use bicycles or quieter vehicles or to give clear instructions to any third party delivery drivers to use their vehicle in a responsible manner.
23. The Committee took into account the objector's concerns that due to the size of the Premise it was impossible for the delivery drivers to wait inside the shop after 23:00 as suggested by the condition 3 proposed by the Police referred at paragraph 21 above. The Committee heard from the Applicant that after 23:00 they would use one side of the seated area only for delivery drivers who will wait to collect the orders, and the other side of the seated area will be reserved for walk in customers. The Applicant clarified that due to the nature of the business the delivery drivers were expected to stay inside the Premises only for one or two minutes.
24. However in accordance with policy 14 of the statement of licensing policy, it was the Committee's considered opinion that this condition would not be sufficient to deal with possible public nuisance and anti-social behaviour caused by delivery drivers collecting deliveries from the Premises and would not promote the licensing objective of prevention of public nuisance.
25. In relation to conditions 1 and 2 proposed by the Police as referred at paragraph 21 above, according to which the Applicant will display signs at the Premises asking patrons as well as delivery drivers to leave the area quietly and respect the neighbours, it was the Committee's considered opinion that it will be difficult for the Applicant to ensure that the customers and drivers will follow the rules. It was the Committee's considered opinion that this condition would not be sufficient to deal with the objectors concerns or promote the licensing objective of prevention of public nuisance.
26. Although it was noted that there has been no complaints against the Premises or any issue or concerns with the noise generated from the delivery drivers before 23:00 , it was the Committee's considered opinion that granting this licence will add to the noise and the operation of the Premises late at night will disturb the local residents. It was the Committee's considered opinion that this would have a negative impact on the promotion of prevention of public nuisance and prevention of crime and disorder.
27. The Committee took into account the objector's concerns that the Premises has been selling hot food after 23:00 without a licence. The Committee heard from the Licensing Officer Ms Karen Layug that a complaint was received at the Licensing Authority regarding this issue. The Committee heard that two test purchases were carried out at the Premises after 23:00 in June 2022 and July 2022 and in both occasions the Premise was closed after 23:00. The Committee decided not to put weight to this objection when reaching its decision.

28. Taking all the above into account, it was the Committee's considered opinion to reject the Application for the reasons set out in this letter.
29. If any of the parties are unhappy with the decision, they are entitled to appeal to the magistrates' court within 21 days from the date of notification of this decision. This determination does not have effect until the end of the period given for appealing against the decision, or if the decision is appealed against, until the appeal is disposed of.

Licensing Sub-Committee
27 July 2022