

NOTICE OF MEETING

SPECIAL LICENSING SUB COMMITTEE

Tuesday, 7th September, 2021, 7.00 pm - MS Teams (watch it [here](#))

Members: Councillors Gina Adamou (Chair), Barbara Blake, and Luke Cawley-Harrison

Quorum: 3

1. FILMING AT MEETINGS

Please note this meeting may be filmed or recorded by the Council for live or subsequent broadcast via the Council's internet site or by anyone attending the meeting using any communication method. Members of the public participating in the meeting (e.g. making deputations, asking questions, making oral protests) should be aware that they are likely to be filmed, recorded or reported on. By entering the 'meeting room', you are consenting to being filmed and to the possible use of those images and sound recordings.

The Chair of the meeting has the discretion to terminate or suspend filming or recording, if in his or her opinion continuation of the filming, recording or reporting would disrupt or prejudice the proceedings, infringe the rights of any individual, or may lead to the breach of a legal obligation by the Council.

2. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

3. URGENT BUSINESS

It being a special meeting of the Sub Committee, under Part Four, Section B, Paragraph 17, of the Council's Constitution, no other business shall be considered at the meeting.

4. DECLARATIONS OF INTEREST

A member with a disclosable pecuniary interest or a prejudicial interest in a matter who attends a meeting of the authority at which the matter is considered:

- (i) must disclose the interest at the start of the meeting or when the interest becomes apparent, and
- (ii) may not participate in any discussion or vote on the matter and must withdraw from the meeting room.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Register of Members' Interests or the subject of a pending notification must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal interests and prejudicial interests are defined at Paragraphs 5-7 and Appendix A of the Members' Code of Conduct.

5. SUMMARY OF PROCEDURE

The Chair will explain the procedure that the Committee will follow for the hearing considered under the Licensing Act 2003.

6. APPLICATION FOR A NEW PREMISES LICENCE AT DIVINA KITCHEN LTD, 256 ARCHWAY ROAD, LONDON, N6 (PAGES 1 - 110)

To consider an application for a new premises licence.

Fiona Rae, Principal Committee Co-ordinator
Tel – 020 8489 3541
Email: fiona.rae@haringey.gov.uk

Fiona Alderman
Head of Legal & Governance (Monitoring Officer)
River Park House, 225 High Road, Wood Green, N22 8HQ

Friday, 27 August 2021

Report for: Licensing Sub Committee – 7 September 2021

Title: Application for a New Premises Licence at Divinia Kitchen, 256 Archway Road, London, N6.

Report authorised by: Daliah Barrett, Licensing Team Leader, Regulatory Services

Ward(s) affected: Highgate

Report for Key/ Non Key Decision: Not applicable

1. **Describe the issue under consideration**

- 1.1 An application has been submitted by Mr Dritan Hushi seeking the following licensable activities and hours:

Regulated Entertainment: Live Music

Monday to Wednesday	1700 to 2000 hours
Thursday to Saturday	1700 to 2300 hours
Sunday	1700 to 2100 hours

Recorded Music

Monday to Thursday	1000 to 0000 hours
Friday to Saturday	1000 to 0100 hours
Sunday	1000 to 2300 hours

Late Night Refreshment

Monday to Thursday	2300 to 0000 hours
Friday to Saturday	2300 to 0100 hours

Supply of Alcohol

Monday to Thursday	1000 to 0000 hours
Friday to Saturday	1000 to 0100 hours
Sunday	1000 to 2300 hours

Supply of alcohol **ON** the premises.

Hours open to Public

Monday to Thursday	1000 to 0000 hours
Friday to Saturday	1000 to 0100 hours
Sunday	1000 to 2300 hours

- 1.3 Representations have been received against this application by ‘other persons’ and Responsible Authorities.
- 1.4 As such, in accordance with the legislation the Licensing Authority must hold a hearing to consider the application and any relevant representations.

1.5 Representations

Responsible Authorities representations can be found at Appendix 2. Representations have been received from Planning, Noise Team and the Licensing Authority.

Other persons representations can be found at Appendix 3.

2 Background

- 2.1 The premises is situated along a parade of retail units with residential above. The premises has held a Premises Licence previously under previous owners. The location has undergone different management and changes to the type of restaurant that has been operated. It is also apparent that there has been changes made to the rear garden area at some point under previous owners, which was carried out without obtaining the correct Planning permission. Complaints of noise nuisance has resulted for the use of this area which has affected nearby residents.
- 2.2. Council officers are satisfied that the application for Divinia Kitchen has been made and advertised correctly.

3 Relevant Respresentations

- 3.1 All representations have to meet a basic legal and administrative requirements. If they fail to do so they cannot be accepted. When rejected the person or body sending the representation must be written and an explanation for rejection given in writing.
- 3.2 A responsible authority or other person can make a representation. There are two tests for other persons and only one for a responsible authority. The two tests are contained in Section 18 of the Act.
- 3.3 All representations must be "about the likely effect of the grant of the premises licence on the promotion of the licensing objectives" Likely means something that will probably happen, i.e on balance more likely than not.
- 3.4 Representations from responsible authorities do not have to meet the second test of not being vexatious and frivolous. Other persons have to meet this test.
- 3.5 The representations from Residents (Appendix 5) cite the potential for noise and anti social behaviour remaining into late in the evening from patrons attending the venue.
- 4 All the responsible authorities have been consulted about this application. They are as follows:
The Licensing Authority
The Metropolitan Police
The London Fire and Emergency Planning Authority
Planning
Health and Safety (includes Building Control)
Noise Environmental Health

Food Environmental Health
Trading Standards
Child protection
Public Health.

5. The applicant has offered measures in the operating schedule of the application that they say address the promotion of the Licensing Objectives. These can be found at Sec 18 of Appendix 1.

6 Licensing Officer comments

- 6.1 The following information is intended to advise Members of the relevant aspects of the Statement of Licensing Policy, guidance issued by the Secretary of State, legislation and good practice. Members may depart from the Councils Policy and or Section 182 Guidance provided they consider it appropriate to do so and provide clear reasons for their decision.
- 6.2 Committee will also wish to be aware of the guidance issued under section 182 of the Licensing Act 2003. Licensing is about regulating the provision of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Licensing Act 2003. The terms and conditions attached to various permissions are focused on matters which are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.
- 6.3 The objective of the licensing process is to allow for the carrying on of retail sales of alcohol and the prevention of public nuisance, prevention of crime and disorder, public safety and protection of children from harm. It is the Licensing Authority's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.
- 6.4 In considering licence applications, where relevant representations are made, this Licensing Authority will consider the adequacy of measures proposed to deal with the potential for public nuisance and/or public disorder having regard to all the circumstances of the case.
- 6.5 Where relevant representations are made, this authority will demand stricter conditions with regard to noise control in areas that have denser residential accommodation, but this will not limit opening hours without regard for the individual merits of any application. This authority will consider each application and work with the parties concerned to ensure that adequate noise control measures are in place. Any action taken to promote the licensing objectives will be appropriate and proportionate.
- 6.6 Also The Licensing Authority may not impose conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of the hearing that it is appropriate to impose conditions to promote one or more of the four licensing objectives. Therefore conditions may not be imposed for the purpose other than promoting the licensing objectives and in some cases no additional conditions will be required.

- 6.7 The Licensing Act 2003 permits children of any ages to be on the premises which primarily sells alcohol provided they are accompanied by an adult. It is not necessary to make this a condition.
- 6.8 In cases Members should make their decisions on the civil burden of proof, that is the balance of probability.
- 6.9 Members should consider in all cases whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.
- 6.10 The Government has advised that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff. The Councils Licensing policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.

7 **Options:**

- 7.1 The Authority must, having regard to the application and the representations, take such steps (if any), as it considers appropriate for the promotion of the licensing objectives.
The steps are:

In determining this application the Sub-Committee may take any of the following steps as it considers appropriate for the promotion of the licensing objectives, namely:

- To grant the licence subject to such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers appropriate for the promotion of the licensing objectives.
- To exclude from the scope of the licence any of the licensable activities to which the application relates.
- To refuse to specify a person in the licence as the premises supervisor.
- To reject the application.

For the purposes of the Licensing Act 2003 the conditions of the licence are modified if any of them are altered or omitted or a new condition added.

- 8 The licensing authority's determination of this application is subject to a 21 day appeal period or if the decision is appealed the date of the appeal is determined and /or disposed of.

9. Other considerations

Section 17 of the Crime and Disorder Act 1998 states:

“Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can to prevent crime and disorder in its area”.

9.1 Human Rights

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life.
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to a fair hearing.
- Article 10 – Freedom of Expression

10 Use of Appendices

Appendix 1 – Application document

Appendix 2 – Representation from Responsible Authorities

Appendix 3 – Representations from ‘other parties’

Background papers: Section 82 Guidance
Haringey Statement of Licensing policy

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Appendix 1 – Application and Accompanying Information

Application for a premises licence to be granted under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We DRITAN HUSHI

(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description 256 ARCHWAY ROAD, LONDON,			
Post town	HARINGUEY	Postcode	N65AX

Telephone number at premises (if any)	[REDACTED]
Non-domestic rateable value of premises	£ B (4,301-£33,000)

Part 2 - Applicant details

Please state whether you are applying for a premises licence as **Please tick as appropriate**

- a) an individual or individuals * please complete section (A)
- b) a person other than an individual *
 - i as a limited company/limited liability partnership please complete section (B)
 - ii as a partnership (other than limited liability) please complete section (B)
 - iii as an unincorporated association or please complete section (B)
 - iv other (for example a statutory corporation) please complete section (B)
- c) a recognised club please complete section (B)
- d) a charity please complete section (B)

- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) a person who is registered under Part 2 of the please complete section (B)
Care Standards Act 2000 (c14) in respect of an
independent hospital in Wales
- ga) a person who is registered under Chapter 2 of please complete section (B)
Part 1 of the Health and Social Care Act 2008
(within the meaning of that Part) in an
independent hospital in England
- h) the chief officer of police of a police force in please complete section (B)
England and Wales

* If you are applying as a person described in (a) or (b) please confirm (by ticking yes to one box below):






I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or

I am making the application pursuant to a

statutory function or

a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs	Miss	Ms	Other Title (for example, Rev)	
Surname HUSHI			First names DRITAN		
Date of birth		I am 18 years old or over <input checked="" type="checkbox"/>		Please tick yes	
Nationality					
Current residential address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 15 for information)					

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr	Mrs	Miss	Ms	Other Title (for example, Rev)	
Surname			First names		
Date of birth		I am 18 years old or over		Please tick yes	
Nationality					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service: (please see note 15 for information)					
Current residential address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.)

Telephone number (if any)
E-mail address (optional)

Part 3 Operating Schedule

When do you want the premises licence to start?

DD	MM	YYYY
1	6	062021

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD	MM	YYYY

Please give a general description of the premises (please read guidance note 1)
 IT'S A BAR / RESTAURANT WHICH I INTEND TO SERVE BRAZILIAN AND ITALIAN
 KITCHEN FOOD, HOT AND COLD DRINKS AND ALCHOOL.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

NO

What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

- Provision of regulated entertainment (please read guidance note 2) Please tick all that apply
- a) plays (if ticking yes, fill in box A)
 - b) films (if ticking yes, fill in box B)
 - c) indoor sporting events (if ticking yes, fill in box C)
 - d) boxing or wrestling entertainment (if ticking yes, fill in box D)
 - e) live music (if ticking yes, fill in box E)
 - f) recorded music (if ticking yes, fill in box F)
 - g) performances of dance (if ticking yes, fill in box G)
 - h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

Provision of late night refreshment (if ticking yes, fill in box I) YES

Supply of alcohol (if ticking yes, fill in box J) YES

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 7)			<u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	
Day	Start	Finish		Outdoors	
				Both	
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for performing plays</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 7)			Will the exhibition of films take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	
Day	Start	Finish		Outdoors	
				Both	
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 7)			<u>Please give further details</u> (please read guidance note 4)
Day	Start	Finish	
Mon			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 5)
Tue			
Wed			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 6)
Thur			
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 7)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	
				Outdoors	
Day	Start	Finish		Both	
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 7)			<u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	✓
Day	Start	Finish		Outdoors	
				Both	
Mon	17.00	20.00	<u>Please give further details here</u> (please read guidance note 4) AMPLIFIED PERFORMANCE OF LIVE MUSIC TAKE PLACE INDOORS		
Tue	17.00	20.00			
Wed	17.00	20.00	<u>State any seasonal variations for the performance of live music</u> (please read guidance note 5) NEW YEARS EVE, BANK HOLIDAYS		
Thur	17.00	23.00			
Fri	17.00	23.00	<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 6) NEW YEARS EVE		
Sat	17.00	2300			
Sun	17.00	21.00			

F

Recorded music Standard days and timings (please read guidance note 7)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon	10.00	00.00	<u>Please give further details here</u> (please read guidance note 4) UNAMPLIFIED RECORDED MUSIC		
Tue	10.00	00.00			
Wed	10.00	00.00	<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 5) NEW YEARS EVE, BANK HOLIDAYS		
Thur	10.00	00.00			
Fri	10.00	01.00	<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 6) NEW YEARS EVE		
Sat	10.00	01.00			
Sun	10.00	23.00			

G

Performances of dance Standard days and timings (please read guidance note 7)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	
Day	Start	Finish		Outdoors	
Mon				Please give further details here (please read guidance note 4)	
Tue					
Wed			State any seasonal variations for the performance of dance (please read guidance note 5)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list (please read guidance note 6)		
Sat					
Sun					

H

<p>Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 7)</p>			<p>Please give a description of the type of entertainment you will be providing</p>		
Day	Start	Finish	<p><u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)</p>	Indoors	
Mon				Outdoors	
				Both	
Tue			<p><u>Please give further details here</u> (please read guidance note 4)</p>		
Wed					
Thur			<p><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 5)</p>		
Fri					
Sat			<p><u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 6)</p>		
Sun					





I

Late night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon	10.00	00.00	<u>Please give further details here</u> (please read guidance note 4)		
Tue	10.00	00.00			
Wed	10.00	00.00	<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 5) NEW YEARS EVE AND BANK HOLIDAYS		
Thur	10.00	00.00			
Fri	10.00	01.00	<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 6) NEW YEARS EVE		
Sat	10.00	01.00			
Sun	10.00	23.00			

J

Supply of alcohol Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption – please tick (please read guidance note 8)	On the premises	<input checked="" type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 5) NEW YEARS EVE AND BANK HOLIDAYS		
Mon	10.00	00.00			
Tue	10.00	00.00			
Wed	10.00	00.00			
Thur	10.00	00.00			
Fri	10.00	01.00			
Sat	10.00	01.00			
Sun	10.00	23.00			
			Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 6) NEW YEARS EVE AND BANK HOLIDAYS		

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form):

Name	ANA FILIPA DE ALMEIDA VALENTE
Date of birth	
Address	
Postcode	
Personal licence number (if known)	

Issuing licensing authority (if known)

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9).

L

<p>Hours premises are open to the public Standard days and timings (please read guidance note 7)</p>			<p>State any seasonal variations (please read guidance note 5)</p>
Day	Start	Finish	
Mon	10.00	00.00	
Tue	10.00	00.00	
Wed	10.00	00.00	
Thur	10.00	00.00	
Fri	10.00	01.00	
<p><u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 6)</p>			

Sat	10.00	01.00	
Sun	10.00	00.00	

M

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)

MINIMIZE THE REGULATORY BURDEN ON BUSINESS, ENCOURAGING INNOVATION AND SUPPORTING RESPONSIBLE PERMISES/CONDUCTS.

b) The prevention of crime and disorder

GIVING THE POLICE AND LICENSING AUTHORITIES THE POWER THEY NEEDED TO EFFECTIVELY MANAGE AND POLICE THE NIGHT-TIME ECONOMY TO TAKE ACTION AGAINST THOSE PERMISES THAT ARE CAUSING PROBLEMS. DO NOT SELL ALCOHOL TO SOMEONE THAT SEEMS TO BE UNDER ALCOHOLIC INFLUENCE.

c) Public safety

ALL BOTTLES AND GLASSES ARE TO BE REMOVED FROM PUBLIC AREAS AS SOON AS THE CONTENTS HAVE BEEN DRUNK OR ARE EMPTY. THE PERMISES ARE EQUIPPED WITH FIRE EXTINGUISHERS, FIRST AID KIT AND CLEAR OF OBSTRUCTIONS. STAFF IS TRAINED AND AWARE OF WORK HAZARDS AND PREVENTION OF THE SAME.

d) The prevention of public nuisance

WE WILL ALWAYS BE CONSIDERED TO OUR NEIGHBOURS AND LOCAL RESIDENTS KEEPING THE NOISE TO A MINIMUM AND RESPECT THE TIME ALLOWANCE GIVEN TO THE PREMISES BY THE LOCAL AUTHORITY.

e) The protection of children from harm

WE WILL ALWAYS BE OPERATION ON A CHALLENGE 25 ID REQUEST FOR EVERY CUSTOIMER THAT SEEMS TO BE UNDER 25.

Checklist:

Please tick to indicate agreement


- I have made or enclosed payment of the fee.
- I have enclosed the plan of the premises.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.
- I understand that I must now advertise my application.
- I understand that if I do not comply with the above requirements my application will be rejected.
- [Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom or my share code issued by the Home Office online right to work checking service (please read note 15).

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Part 4 – Signatures (please read guidance note 11)

Signature of applicant or applicant’s solicitor or other duly authorised agent (see guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

Declaration	<ul style="list-style-type: none"> [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15). The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work (please see note 15)
Signature	
Date	16/06/2021
Capacity	COMPANY DIRECTOR

For joint applications, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 13). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14)			
Post town		Postcode	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			

Notes for Guidance

1. Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. In terms of specific regulated entertainments please note that:
 - Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
 - Films: no licence is required for ‘not-for-profit’ film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
 - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
 - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
 - Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.

- Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
 - Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
 - Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.
3. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
 4. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
 5. For example (but not exclusively), where the activity will occur on additional days during the summer months.
 6. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
 7. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.
 8. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
 9. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
 10. Please list here steps you will take to promote all four licensing objectives together.
 11. The application form must be signed.

12. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
13. Where there is more than one applicant, each of the applicants or their respective agent must sign the application form.
14. This is the address which we shall use to correspond with you about this application.

15. Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this in one of two ways: 1) by providing with this application copies or scanned copies of the documents listed below (which do not need to be certified), or 2) by providing their 'share code' to enable the licensing authority to carry out a check using the Home Office online right to work checking service (see below).

Documents which demonstrate entitlement to work in the UK

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.

- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 18(3) or 20(2) of the Immigration (European Economic Area) Regulations 2016, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.

- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.

- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:
 - evidence of the applicant's own identity – such as a passport,
 - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
 - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
 - (i) working e.g. employment contract, wage slips, letter from the employer,
 - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
 - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
 - (iv) self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

Original documents must not be sent to licensing authorities. If the document copied is a passport, a copy of the following pages should be provided:

- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you

have complied with this guidance.

Home Office online right to work checking service

As an alternative to providing a copy of the documents listed above, applicants may demonstrate their right to work by allowing the licensing authority to carry out a check with the Home Office online right to work checking service.

To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in this application their 9-digit share code (provided to them upon accessing the service at <https://www.gov.uk/prove-right-to-work>) which, along with the applicant's date of birth (provided within this application), will allow the licensing authority to carry out the check.

In order to establish the applicant's right to work, the check will need to indicate that the applicant is allowed to work in the United Kingdom and is not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

An online check will not be possible in all circumstances because not all applicants will have an immigration status that can be checked online. The Home Office online right to work checking service sets out what information and/or documentation applicants will need in order to access the service. Applicants who are unable to obtain a share code from the service should submit copy documents as set out above.



NORTH

Ground Floor



NO. 256
ENTRANCE

ARCHWAY ROAD



LOCATION PLAN
SCALE 1:3250



NORTH

Basement



PLAN CONSULTING CORPORATION ESTABLISHED 1982

Client	Address 256 ARCHWAY ROAD LONDON W8 5XZ	Location GROUND FLOOR & BASEMENT LEASE PLAN	Date 02.09.2011	Scale 1:100	Sheet A1	<p>Plan London Tel: 02045 2262779 www.planlondon.co.uk 20-28 Lambing Lane, London, EC22 3EP</p>
Proj No.	Location	Client	Contract	<p>PL3615-01</p> <p>SC</p> <p>FG</p>		

ALCOHOL WILL BE STORE IN THIS AREA BEHIND THE COUNTER

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Appendix 2 – Representations from Responsible Authorities

Your Ref:

Our Ref: Licensing

Date: 9th August 2021

REPRESENTATION LETTER

Dear Sir/Madam,

**LICENSING ACT 2003 – Application for a Premises Licence- Divina Kitchen Ltd,
256 Archway Road, London N6 5AX**

I have considered the application and feel that the conditions offered do not fully address the licensing objectives adequately, the applicant is seeking the following hours:

Regulated Entertainment: Live Music

Monday to Wednesday 5pm to 8pm
Thursday to Saturday 5pm to 11pm
Sunday 5pm to 9pm

Recorded Music

Monday to Thursday 10am to 12 midnight
Friday to Saturday 10am to 1am
Sunday 10am to 11pm

Late Night Refreshment

Monday to Thursday 11pm to 12 midnight
Friday to Saturday 11pm to 1am

Supply of Alcohol

Monday to Thursday 10am to 12 midnight
Friday to Saturday 10am to 1am
Sunday 10am to 11pm
Supply of alcohol on the premises

Hours open to Public

Monday to Thursday 10am to 12 midnight
Friday to Saturday 10am to 1am
Sunday 10am to 11pm

The hours being applied for are excessive for the location and locality of the venue which is surrounded by residential properties. The applicants have been operating from the premises as a restaurant in the past 2 months and over this period residents have raised concerns and complaints relating to noise nuisance arising from the premises.

The premises have also been warned on a number of occasions to not supply or offer alcohol for sale but continued to do so after being warned.

There has been some events take place at the restaurant and the general customer use of the premises which has led to the many noise complaints received and engagement from the Ward Councillor on residents behalf.

Having considered the application we take that the view that the hours be reduced as follows:

Regulated Entertainment: Live Music – indoors only

Sunday to Thursday 5pm to 8pm

Friday to Saturday 5pm to 10pm

Recorded Music – indoors only

Sunday to Thursday 10am to 10.00pm –

Friday to Saturday 10am to 11pm

Late Night Refreshment

Friday to Saturday 11pm to 11.30

Supply of Alcohol

Sunday to Thursday 10am to 10.00pm

Friday to Saturday 10am to 11pm

Supply of alcohol on the premises

Hours open to Public

Sunday to Thursday 10am to 10.30

Friday to Saturday 10am to midnight

The rear garden area was never intended to be used as an extension of restaurant area under the Planning permission issued. The changes made to the rear garden has been a creeping effect over the years to the level to which it now exists as an extensive part of the restaurant. We understand that there is Planning enforcement action outstanding with regard to the issues of the rear garden area and its use.

It is fair to say that the use of this area has contributed to complaints of noise nuisance which has been disturbing residents as well as some residents finding it intrusive for the customers to be seeing into their properties.

Whilst we draw the LSC attention to the rear area and the fact that Planning Enforcement action is being taken. We also are aware that businesses are being asked to make the most of using outside spaces during this Coronavirus pandemic. If the LSC is minded to allow the use of the rear garden we feel stringent hours should be applied to minimise any disruption to residents. The rear area to be closed to the public by 9pm each day of the week. Adequate notices shall be displayed to inform patrons of this requirement.

Prevention of Public Nuisance

- Unless specifically applied for (Pavement License), no consumption of food or alcohol shall take place outside of the front of the premises.
- The premises licence holder shall take appropriate measures to ensure that patrons using any outside areas do so in a quiet and orderly fashion.
- No music shall be played in the outside area at any time.

Smoking Area: If patrons are to be allowed to use an outside area for smoking then:

- The area must be adequately monitored by door staff and CCTV to ensure that patrons do not cause a nuisance, patrons do not obstruct access to adjoining premises and risk of crime and disorder in this area is adequately controlled.
- Patrons must not be allowed to take drinks to the smoking area. Any patrons wishing to smoke must do so at the front of the premises, once the garden is closed. No drinks at front either.
- The area must be provided with suitable ashtrays/bins.

- The area must be regularly swept to remove cigarette ends
- Adequate arrangements must be made to prevent overcrowding or disorder in the area

Prevention of Crime and Disorder

- The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Police and Local Authority Licensing Teams. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.

The premises has shown a level of non compliance with warnings issued to them to not sell or offer alcohol without a licence. The operators were warned on a number of occasion to comply to not sell alcohol but the Council received pictures from residents and also photos from the business own website where they continued to offer alcohol for sale even after being warned of the penalties in doing so. The Council has not been able to witness this activity in order to instigate a prosecution at this time.

If you have any further questions, please do not hesitate to contact me

Yours sincerely

Phil Cone

Licensing Enforcement Office

Building Control

Robert McIver Head of Building Control



Haringey Licensing
River Park House
High Road
London
N22 8HQ

Your ref:
Our ref: M500/LL/0000/1075/
Contact No. 020 8489 5504
Date: 28 July 2021
Email: building.control@haringey.gov.uk

Dear Sir/Madam

BUILDING ACT 1984 (as amended)
BUILDING REGULATIONS 2010 (as amended)
Location: DIVINA KITCHEN LTD 256 Archway Road London N6
Proposal: APPLICATION FOR A PREMISES LICENCE

I refer to the above application for a premises License.

Building Control, would like to make **Representation**, as **Responsible Authority** under the Licensing Act 2003, with reference to the **Licensing objective** for the **Protection of Public Safety**. This application is **not** shown to achieve the minimum standards required under the Technical Standards for Places of Entertainment, as set out in the attached schedule.

Should you wish to discuss this matter further please contact this office.

Yours faithfully

A handwritten signature in blue ink, appearing to be 'P Chénier', written over a light blue horizontal line.

P Chénier
Principal Building Surveyor



M500MV1 MAY20

River Park House
Level 6 - 225 High Road
London N22 8HQ
building.control@haringey.gov.uk
T 020 8489 5504

www.haringey.gov.uk

Schedule for DIVINA KITCHEN LTD 256 Archway Road London N6

1. The Plans submitted are not reflective of the premises. The main entrance arrangements and WC configuration differ from those shown on the drawings.
2. The Means of escape is unsatisfactory.
3. Full details of the exit signage proposed not provided
4. Full details of emergency lighting installation not provided
5. Full details of fire alarm system installation not provided
6. No details of wall coverings provided to shown to demonstrate a minimum class 0 surface spread of flame.
7. No details of the furnishings and their fireproof ratings provided.
8. No details provided of the floor coverings or underlays demonstrating a minimum British Standard BS5438-1989 and tested to BS 4790 or Class 0.
9. No details provided of fabrics, curtains, drapes and similar features to demonstrate that they are either be non-combustible or be of durably or inherently flame-retarded fabric. Or where used in escape routes, other than foyers, entertainment areas or function rooms, are non-combustible.
10. The Main entrance door is shown as opening in the wrong direction for escape purposes.
11. Ground floor plan shows the door to the basement stair opening in the wrong direction for escape purposes.
12. The clear width of the staircase leading to the basement has not been indicated.
13. Plans do not show the rear exits being illuminated to the public highway.
14. Plans do not show locations of;
 - a. emergency lighting points
 - b. Smoke detection
 - c. Exit signage
 - d. Seating
15. No indication of the type of door fastenings proposed on exit doors.
16. Fire resistance and signage to the store cupboards not provided.
17. Details of the electrical installation including cabling type and protection, have not been provided.
18. No management lighting details have been provided.
19. No details of input or extract ventilation provided.
20. No space heating details have been provided.
21. Disabled access statement has not been provided.
22. No disabled WC indicated.
23. Wash hand basins on plan shown outside the WC room.

From: Oloyede Abiola <Abiola.Oloyede@haringey.gov.uk>

Sent: 21 July 2021 15:35

To: Licensing <Licensing.Licensing@haringey.gov.uk>

Subject: RE: Application for a Premises Licence- Divina Kitchen Ltd, 256 Archway Road, Hornsey, London N6 5AX (WK/507295)

Good afternoon licensing

Please note that there are outstanding planning enforcement issues associated with this unit. Mainly the removal of overhanging attachments from the rear yard and reduction of boundary fence. Also the use of the garden for seating of customers and proposed extended opening hours is not advisable given past issues with surrounding occupiers on noise and smoke. See attached ancient permission regarding condition of opening 9am – 11pm (page 22) and also enforcement notice.

Kind Regards

Abiola

Abiola Oloyede | Principal Planning Enforcement Officer

Planning, Regeneration and Development | Haringey Council

River Park House 225 High Road | London | N22 8HQ

Tel: 020 8489 5593 Mob: 07870 157 838

www.haringey.gov.uk

Please note that the above is an officer's opinion only and does not prejudice any decisions that the Council may take.

To the Borough Planning Officer

15th July 1979

- 2 -

G. Aston	55	Holmesdale Road	
L. Aston		"	
P. Reese	54	"	"
K. & D. F. Draith	1	Florence Villas, Holmesdale Rd, N6.	
R. Dunbar	2	"	
S. W. Band	31	Holmesdale Rd.	
Ralph Bond	31	Holmesdale Rd, N6	
David Morgan	29	Holmesdale Rd N6	
Johanna R. Gray	"	"	"
P. Shumron	27	Holmesdale	"
O. Ridge	27	"	"
A. Meagus	28	"	"
A. S.	21A	Holmesdale Rd.	
M. C. Waman	21	"	"
M. Cooper	19	"	"
Mrs. K. Lindsay	15	"	"
M. Jackson	11	"	"
G. R. Stand	9	"	"
D. Ryan	3	"	"
A. Ryan	3	"	"
Kathie Freyhan	1	"	"
John Carrivick	1	"	"
Pete Freyhan	1	Holmesdale Road	

To the Borough Planning Officer

- 3 -

15th July 1979

P. Gleane	61	Holmesdale Road.
Amberich	300,	Aschway Road.
DRudin	42,	Holmesdale Rd. N6.
N. Ellv	47	Holmesdale Rd N6
P. Gyles	59,	Holmesdale Rd. N.6.
C. Smith	40,	Holmesdale Rd. N6.
Joan Eagle	38	" " " "
O. M. Petwo	36 ⁷	" " " "
a.g. adkins	32	" " " "
M. Haines	30	" " " "
P. L. Stan	18,	Holmesdale Road N.6.
M. O'Hagan	13	Holmesdale Road N.6.
H. Haier	12,	Holmesdale Rd. N6.
P. M. Forsay	14	Holmesdale Rd N6
Mrs & Mrs Hammond	22,	Holmesdale Rd N.6
M. Redmond	"	" " " "
Moelunnaighron	16	Holmesdale Rd. N6
M.K. Reibel	16.	Holmesdale Rd. N.6.
A. Redmond.	10	Holmesdale Rd N.6.
Mrs P Campbell		

To the Borough Planning Officer. -4- 15th. July 1979

- R. Mackay 8 Holmesdale Rd. Rd. N6.

Mauch J.F. Tettell 8, Holmesdale Rd N6.

Lynette Allen 4 Holmesdale Rd. N6.

E. H. Johnston 5 Holmesdale Road. N6.

A.P. Richardson 38. Southwood Ave. N6

Ray Hancock 58 Priory Rd N6

D PS PED

Your ref: JW/P. Smith

33 Holmesdale Road,
London N6 5TH

The Borough Planning Officer,
Borough of Haringey,
Hornsey Town Hall,
The Broadway,
Crouch End,
London N8 9JJ

HARINGEY TOWN PLANNING SERVICE			
19 JUL 1979			
DPO	DPBO	CAPO	SEC
DP/1	DP/2	DP/3	DP/4
DP/A	DS	DC/A	PERS
RES	LIB	LLC	

17th July 1979

Dear Sir,

Ref. no. HGY/1030/256/1

Thank you for your letter of 29th June concerning the proposed development for 256 Archway Road.

We wish to oppose the application on the grounds that such use of the premises would be very likely to adversely affect local residents in a number of ways.

Firstly, we feel that the noise inevitably coming from a restaurant would be unacceptable in a building which overlooks houses and gardens. In our case, we have two babies of six months who sleep at the back of our house, and who would certainly be disturbed during the evenings by the increased noise.

Secondly, the smells from cooking and the storage of waste would be extremely unpleasant, and would spoil our present enjoyment of our garden.

Thirdly, we are particularly concerned about hygiene. Restaurants are notorious as breeding grounds for flies, and frequently for mice, rats and other pests. At the moment, we suffer from no infestations of this kind, and we do not want to risk their occurrence. Again, we are particularly concerned for the health of our babies.

It may be that the applicants will offer assurance that nuisances of this sort will not occur. However, having lived in close proximity to restaurants before, we are well aware that such good intentions are not always fulfilled. Restaurants often employ transient staff who are less than scrupulous about maintaining ideal conditions.

Lastly, we seriously question the need for yet another restaurant in the area when we lack a number of services which would be far more useful to local residents. In fact, we would be grateful for confirmation that the Planning Office are entitled to consider the mix of commercial services provided in an area when looking at applications for new developments.

On all these grounds we strongly urge that the application be refused.

Yours faithfully,

C.J. and L.R. Lamb
C.J. and L.R. Lamb

D 13/7

1030 | 256

Councillor A. Franchi, 20 Oakleigh Park South, N.20.
Mrs. Sally Whitby, 21 Highgate Avenue, N6 5SB

PES/BMG

30 July 1979

Town & Country Planning Act 1971
256 Archway Road N.6. - Ref: HGY/1030/256/1

I would inform you that my Department has received an application for planning permission, dated 18 June 1979, for the change of use of the ground floor and basement at the above premises to restaurant, together with the installation of a new shop front.

This matter would normally be dealt with by delegated powers, however, the application has aroused considerable local interest especially for residents in Holmesdale Road which backs onto the above property.

I have received four letters of objection together with a further letter enclosing a petition containing 61 signatures objecting to the change of use.

In view of the interest shown I propose to report this matter to the next Development Control Sub-Committee which is to be held on 4 September 1979.

If you have any questions in connection with this matter, I would be grateful if you would contact my assistant, Mr. P.E. Smith, 340 3220, extension 231.

Yours sincerely,

Principal Planning Officer. *150*

13
C

HARINGEY			
TOWN PLANNING SERVICE			
- 6 AUG 1979			
DPO	DPDO	CAFO	SEC
DP/1	DP/2	DP/3	DP/4
DP/A	DC	DC/A	PERS
RES	LIB	LLC	



The Highgate Society

10a South Grove Highgate N6 6BS

The Borough Planning Officer,
Borough of Haringey,
Hornsey Town Hall,
Crouch End Broadway, N8 9JJ

3rd August 1979.

Dear Sir,

256 Archway Road, N.6. HGY 1030/256/1/20957

We have examined the application for internal alterations to the above premises and change of use to an Indian restaurant.

Whilst we should not object to a restaurant in these premises, providing hygienic regulations could be satisfied, we would be considerably concerned by the indirect effects which such use might have upon neighbouring residential roads in the form of extra parking, litter etc. This is a very heavily used main road, by night as well as by day, and it seems inevitable that yet another restaurant (there are already 2 restaurants, 2 take-aways and a cafe in the stretch) would add to the parking problems already complained of by residents.

We hope that you will take these factors into account in considering this application.

Yours faithfully,

Ian Davis

Ian Davis,
Chairman, Environment Committee

BOROUGH OF HARINGEY
MEMORANDUM

Your reference HGY/1030/256/1
My reference EH/F/NJW/DM
NJW

FROM: CHIEF ENVIRONMENTAL HEALTH OFFICER
This matter is being dealt with by:
Mr. N.J. Ward.

TO: BOROUGH PLANNING OFFICER

8th August 1979

Re: 256 Archway Road, London, N.6.
Use as a Restaurant

I am in receipt of your memorandum dated the 29th June 1979 in respect of the above mentioned planning application.

I wrote to Mr. Gulian on the 6th July 1979 requesting a copy of the plans but to date I have received no reply.

In view of this I am unable to make any specific comments concerning the application. I would point out that it will be necessary for separate sanitary accommodation to be provided for male and female customers. Such sanitary accommodation should include the provision of wash hand basins provided with supplies of hot and cold water.

Should you require any further information concerning these requirements, please do not hesitate to contact Mr. N.J. Ward who deals with these premises.

J. A. Harris

Chief Environmental Health Officer.

HARINGEY			
TOWN PLANNING SERVICE			
- 8 AUG 1979			
DPO	DP/1	DP/2	SEC
DP/1	DP/2	DP/3	DP/4
DP/A	DC	DC/A	PERS
RES	LIB	LLC	

Dave 256 Archway Rd Mb.

This case has already been passed forward for decision but I thought you'd better see these two letters one of which includes a petition with signatures of people in Alderslade Rd. I think this should still be approved. Thanks Paul S. 23/7/79.



^{29/6} BOROUGH OF HARINGEY
TOWN PLANNING SERVICE

REGISTER NO: 20957
GRID REF. EASTING NORTHING
5285645 187861
O.S. SHEET NO: 470C

STREET REF. 2048 PROPERTY NO. 1030 256 APP NO. 1

LOCATION: 25b Archway Road N6
of ground floor & basement 4233

PROPOSAL: *Use as a Restaurant + installation of new shopfront.*
Type of Application: 03

AGENT: S. Gulial
109 Stough Lane
NW9
Type of Applicant: 00

APPLICANT: M. A UOIN
23 Carnington Ave
Hounslow, Middlesex
Stat. List: * I/II A/B/C
Local List

Council Proposals: L
ROAD CLASS'N: * Trunk/Met A/Met B/Borough. YES/NO
Conservation Areas * YES/NO
T.P.O. * YES/NO
Application Dated 18.6.79 Application Received 19.6.79
D.C. Officer: PS
Passed to D.C. 27.6.79

CONSULTATIONS *	Date Sent	Date Reply
BE & S HIGHWAYS HCA TEAM CPHI	29/6	
BOROUGH ARCHITECT CLEANSING MANAGER PARKS PUBLIC CONTROL	29/6	
D of E HIGHWAYS ADJ. L.P.A. LVRPA TWA LONDON TRANSPORT GLC REGS WARD COUNCILLORS		
LOCAL RESIDENTS 254 and 258 Archway Road 31 and 33 Holmes Dale Road	29/6	
LOCAL ORGANISATIONS		

IDP ZONING: See Page Two 002
TYPE OF DEVELOPMENT: PIPS CODE - 05
SITE AREA: [NET 130 RESIDENTIAL] m²
DENSITY: EXISTING & PROPOSED - See Page Three
PARKING: EXISTING & PROPOSED - See Page Three
OVERLAP: * YES/NO ENFORCEMENT: * YES/NO
PASSED TO GROUP LEADER: PS 13.7.79
DECISION MAKER: * Minister/Council/Chief/Deputy/PO
PASSED TO BPO/DBPO: PS 13/7/79
PANEL DATE:
DATE OF DECISION: 4.9.79 103
DECISION NOTIFIED TO CORRESPONDENTS:
CONDITIONS: * YES/NO DISTRICT H1
PERMISSION ENDS:

Public Advert. Necessary: Date to BS & S: * YES/NO Date Published:

Existing Uses	1	2	3	4	5	6	m ²
* Floor/Site Area	1	59F					
Proposed Uses	1	59F					
* Floor/Site Area							

EXISTING HOUSES BY NO. OF ROOMS:							EXISTING FLATS BY NO. OF ROOMS:							
3 room	4 room	5 room	6 room	7 room	Not known		1 room	2 room	3 room	4 room	5 room	6 room	7 room	Not known

PROPOSED HOUSES BY NO. OF ROOMS:							PROPOSED FLATS BY NO. OF ROOMS:							
3 room	4 room	5 room	6 room	7 room	Not known		1 room	2 room	3 room	4 room	5 room	6 room	7 room	Not known

DATE COMMENCED: DATE COMPLETED:

REPORT - *Delete as appropriate

Proposed Use: Shop & premises	IDP: Shopping
*established/authorised/contravening	Other Plans: /
Site area: 165 sq. m.	Floor space proposed: / sq. m.

*Planning Standards: Complies/Does not comply (density/daylighting/vehicle space/overlooking/nonconforming use)

*Adjoining occupiers/owners: ~~Not consulted~~ **4** consulted, **object** consulted, **24** objections received/petition with **24** signatures objecting.

*Take in inspection report/proposed density from next page.

RECOMMENDATION:

*Resolve for the purposes of Regulation 11 of the Town & Country Planning General Regulations 1969 to carry out the development.

*Pursuant to condition(s) attached to (outtime) permission No. **HGYT** ~~dated~~

*Subject to any Direction by - (i) GLC under Regulation
(ii) Secretary of State for the Environment

*GRANT / ~~REFUSE~~ PERMISSION / ~~APPROVAL~~ / ~~CONSENT~~

in accordance with drawings Regd. No.: **HGY/1030/256/1**

(Applicants Nos. **AS 37**.)

*subject to the following condition(s)/for the following reason(s):

- ① **STD COND 49 COMMENCEE WITHIN 5 YRS + REASON.**
- ② **Hours of Working**
9am - 11 pm
Monday - Saturdays only
34 **34** In order to protect the amenities of adjoining residents.
- ③ **35**

Informative

Planning consent will be required if it is intended to install any illuminated advertising on the premises.

RECOMMENDATION AGREED		
	BPO	DBPO
PANEL	<i>[Signature]</i>	<i>[Signature]</i>
DELEGATION	<i>[Signature]</i>	10/8/7

CHECK LIST - *Delete as appropriate

IDC Floor Space IDC No.	Existing Density Proposed Density Proposed rooms/dwng.	hr/a hr/a	Parking Existing Parking Proposed Parking Standard
ODP Floor Space ODP No.	IDP Plot Ratio Proposed Plot Ratio	:1 :1	Leading Space Standard Leading Space Proposed
Cubic Content Existing Extension	Site Plan *Adequate/Inadequate		
	Daylighting *Complies/Infringes		
Appearance: Massing *Satisfactory/Unsatisfactory Elevations *Satisfactory/Unsatisfactory Materials *Satisfactory/Unsatisfactory Space about bldgs. *Satisfactory/Unsatisfactory Fencing *Satisfactory/Unsatisfactory Planting *Satisfactory/Unsatisfactory	Access *Satisfactory/Unsatisfactory		
	Overlooking *Satisfactory/Unsatisfactory		
	Refuse Collection *Satisfactory/Unsatisfactory		
	Aspect *Satisfactory/Unsatisfactory		
	Prospect *Satisfactory/Unsatisfactory		
	Childrens Playspace @ 2m ² Bedspace *Adequate/Inadequate		

INSPECTION REPORT - Date inspected *9.7.79* - *Poor trading position between laundrette + dress factory. Proposed shopfront would be reasonable. Residential upper part appears vacant. Separate street access.*

PROGRESS NOTES

14.
ARCHWAY

256 ARCHWAY ROAD, N.6 (Appl. received 19.6.79)

Ref.No.1030/256/1

Proposal: Use of ground floor and basement as a restaurant and installation of new shopfront. (Full)

Present Use: Shop and Premises

I.D.P. Shopping

Site Area: 165 sq.m.

Adjoining occupiers/owners: 4 consulted, 4 objections received.

-4 SEP 1979

RECOMMENDATION:

GRANT PERMISSION in accordance with drawings Regl.No. HGY/0130/256/1 (Appl.Nos. AS 37) subject to the following conditions.

1. 49 (Commence within 5 years)
2. 34 (Hours of working...9 a.m. and 11 p.m....Mondays to Saturdays only)

Reason:

2. In order to protect the amenities of adjoining residents.

Informative:

Planning consent will be required if it is intended to install any illuminated advertising on the premises.

HG/P. Smith.

1st October 1979.

THE HIGGATE SOCIETY
Ian Davis,
10a, South Grove,
Highgate,
London N6.

Dear Sir or Madam

~~Town & Country Planning Act 1971~~
Site:

~~Proposed Development:~~ Use of ground floor and basement as a restaurant and
shopfront.

1030/256/1

Ref: HGY/

I refer to previous correspondence concerning an application for permission under the Town and Country Planning Act 1971 in respect of the above proposed development.

In considering this application the Council had regard to your comments and decided to grant permission subject to the conditions set out on the attached schedule.

Thank you for the interest you have taken in this matter.

Yours faithfully

D W FRITH
Borough Planning Officer

Encl:

C.J.&L.R Lamb,
33, Holmesdale Road,
London N6..

M/P. Frith.

Mrs Pamela Jefferys,
37, Onslow Gardens,
London N10. 3JY

1st October 1979.

Dear Sir or Madam

Town & Country Planning Act 1971
Site: 256, Archway Road, N6.

Proposed Development: Use of ground floor and basement as a restaurant and installation of new shopfront.

Ref: HGY/ 1030/256/1 \

I refer to previous correspondence concerning an application for permission under the Town and Country Planning Act 1971 in respect of the above proposed development.

In considering this application the Council gave very careful consideration to your comments but nevertheless decided to grant permission subject to the conditions set out on the attached schedule.

Thank you for the interest you have taken in this matter.

Yours faithfully

D W FRITH
Borough Planning Officer

Encl:

In pursuance of their powers under the above Acts and Orders the Council of the London Borough of Haringey as local planning authority hereby PERMIT the above development in accordance with the application dated 18 June 1979 and drawing(s) No.(s) EGY/1030/256/1 (Appl. Nos. AS 37) subject to the following conditions:

- 1) The development hereby authorised must be begun not later than the expiration of five years from the date of this permission falling which the permission shall be of no effect.
Reason: The Condition is imposed by virtue of Section 41 of the Town and Country Planning Act 1971 and to prevent the accumulation of unimplemented planning permissions.
2. That no work shall be carried out except between the hours of 9 a.m. and 11 p.m. on Mondays to Saturdays only. Reason: In order to protect the amenities of adjoining residents.

Prickett & Ellis
27, Highgate High Street, N.6

Mrs. Sylvia Bond,
Mr. Ralph Bond,
31, Holmesdale Road, N.6

J/P. Smith

12th October 1979

Johanna Morgan,
29, Holmesdale Road,
London,
N.6

Lynch Hall & Hornby,
23, Peterborough Road,
Harrow, Middx.

Dear ~~Sir~~ Madam

Town & Country Planning Act 1971
Site: 256, Archway Road, N.6

Proposed Development: Use of ground floor and basement as a restaurant
and installation of new shopfront.

Ref: HGY/1030/256/1

I refer to previous correspondence concerning an application for
permission under the Town and Country Planning Act 1971 in respect
of the above proposed development.

In considering this application the Council gave very careful
consideration to your comments but nevertheless decided to grant
permission subject to the conditions set out on the attached
schedule.

Thank you for the interest you have taken in this matter.

Yours faithfully

D W FRITH
Borough Planning Officer

Encl:

In pursuance of their powers under the above Acts and Orders the Council of the London Borough of Haringey as local planning authority hereby PERMIT the above development in accordance with the application dated 18 June 1979 and drawing(s) No.(s) EGY/1090/256/1 (Appl. Nos. 13 37) subject to the following conditions:

- 1) The development hereby authorised must be begun not later than the expiration of five years from the date of this permission failing which the permission shall be of no effect.
Reason: The Condition is imposed by virtue of Section 41 of the Town and Country Planning Act 1971 and to prevent the accumulation of unimplemented planning permissions.
2. That no work shall be carried out except between the hours of 9 a.m. and 11 p.m. on Mondays to Saturdays only. Reason: In order to protect the amenities of adjoining residents.

S. Galiel,
109 Stough Lane,
London NW9.

SC/JAN

on behalf of:

17 December 1979.

M.A. Udin,
23, Carvington Avenue,
Hounslow,
Middlesex.

Dear Sir,

RE:- Town and Country Planning Act 1971.
256, Archway Road, N6.
Reference 1030/256/1.

I refer to your application for planning permission dated 18 June 1979 for the use of the ground floor and basement of the above premises as a restaurant and the installation of a new shop front and I enclose herewith the Council's notice of decision.

I am instructed to advise you that planning consent will be required if it is intended to install any illuminated advertising on the premises.

Yours faithfully,

D.G.W. Smith.
Chief Administrative and ~~Planning~~ Officer.

37 Onslow Gardens,
Muswell Hill,
London N10 3JY

7th October, 1979

Your ref: MT/P.Smith

~~Mr D. V. Smith,~~
Borough Planning Officer,
Borough of Haringey,
Hornsey Town Hall,
The Broadway,
Crouch End, N8 9JJ

HARINGEY TOWN PLANNING SERVICE			
9 OCT 1979			
DPO	DPBO	CAPO	SEC
DP/1	DP/2	DP/3	DP/4
DP/A	DC	DC.	P.S
RES	LD	LLC	

Dear Sir,

256 Archway Road, N6
Ref: HGY/1030/256/1

Thank you for your letter of 1st October. May I have further information on the following points:

1. How would condition No 2 for the planning permission be monitored by the Council? i.e How would the closing time of 11 pm be enforced?
2. Is the Planning Office satisfied that there are adequate refuse storage facilities and sufficient collections of rubbish? (I refer to recent correspondence between Mrs Pat Gleave of 61 Holmesdale Road, N6, and the Borough Environmental Health Officer concerning refuse collection for the restaurant at No 310 Archway Road.)
3. Is there a right of appeal under the Town and Country Planning Act 1971?

Yours sincerely,

Pamela Jefferys
Mrs P. Jefferys,
Secretary,
Archway Improvement Association

Mrs. P. Jefferys,
Secretary,
Archway Improvement Association,
37 Onslow Gardens,
London, N10 3JY

PES/TMA

12 October 1979

Dear Madam,

Town and Country Planning Act 1971
256 Archway Road, London, N.6.
Ref: HGY/1030/256/1

I refer to your letter of 9 October 1979.

The Council would not normally monitor the hours of opening of the restaurant premises but should it be brought to the attention of my Department that the restaurant is open beyond the hours stated, the Council would take enforcement action to keep the hours of opening within the limit set by the condition.

I have not seen the correspondence to which you refer but the matter of adequate refuse storage facilities is a matter normally dealt with by the Environmental Health Officer under the Public Health Act.

Only the applicant has a right of appeal under the above Act.

Should you have any further questions in connection with this matter, I would be grateful if you would contact my Assistant, Mr. P.E. Smith, 340 3220 Ext.232 who will be glad to assist you.

Yours faithfully,



Principal Planning Officer.

REF. NO. HGY/1030/256/1

LONDON BOROUGH OF HARINGEY

TOWN AND COUNTRY PLANNING ACT 1971
TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDERS 1977

NOTICE OF PLANNING PERMISSION

Name and Address of Applicant S. Gulial 109 Stough Lane LONDON NW.9	On behalf of H.A. Udin 23 Camington Avenue Hounslow MIDDX.
Site 256 Archway Road, N.6	
Particulars of Development Use of ground floor and basement as a restaurant and installation of new shopfront.	

In pursuance of their powers under the above Acts and Orders the Council of the London Borough of Haringey as local planning authority hereby PERMIT the above development in accordance with the application dated 18 June 1979 and drawing(s) No.(s) HGY/1030/256/1 (Appl. Nos. AS 37) subject to the following conditions:

- 1) The development hereby authorised must be begun not later than the expiration of five years from the date of this permission failing which the permission shall be of no effect.
Reason: The Condition is imposed by virtue of Section 41 of the Town and Country Planning Act 1971 and to prevent the accumulation of unimplemented planning permissions.
2. That no work shall be carried out except between the hours of 9 a.m. and 11 p.m. on Mondays to Saturdays only. Reason: In order to protect the amenities of adjoining residents.

Hornsey Town Hall,
The Broadway,
Crouch End,
N8 9JJ.

Dated 4 September 1979

David Finch

Borough Planning Officer

- NOTES** (1) Attention is particularly drawn to the Schedule on the reverse of this Notice which sets out the rights of Applicants who are aggrieved by the decisions of the Local Planning Authority.
- (2) This decision does not purport to convey any approval or consent which may be required under The Building Regulations 1976, any byelaws or any enactment other than Town and Country Planning Act 1971.



To

Department

RECORD OF INTERVIEW/TELEPHONE CONVERSATION

Date Monday 25-2-85 Time 9:10 AM

Caller's Name Mrs LAMB

Address 33 Holmwood Road N6

Telephone No. 345-9375

Subject 256 Melbury Road N6 opening on
Sundays and until midnight each
night, outside permitted hours

Signature of Officer R Stewart

Development Control Department

Action taken Informed Rec of letter being sent
telling them of planning consent
required for these hours
SD

This form to be completed, in duplicate, original to person accepting responsibility for action, copy to Section Head (or Group Leader) for progress action.



IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

ENFORCEMENT NOTICE

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

ISSUED BY: London Borough of Haringey (herein after referred to as "the Council")

1. THIS IS A FORMAL NOTICE which is issued by the Council because it appears there has been a breach of planning control, under Section 171A (1)(a) of the above Act, at the land described below. The Council considers that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations.

2. THE LAND AFFECTED

The land and building(s) known as 256 Archway Road, London N6 5AX shown edged red on the attached plan ("the premises").

3. THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission;

- I. The change of use of the ground floor and basement to a mixed use comprising of a shisha bar and restaurant
- II. The enclosure of the rear garden

4. REASONS FOR ISSUING THIS NOTICE

- I. It appears to the Council that the above breach of planning control in relation to (3)(I) above has occurred "within the last TEN years" and that steps should be taken to remedy the breach by Section 173 4(a) or to remedy any amenity or injury which has been caused by the breach.
- II. It appears to the Council that the above breach of planning control in relation to (3)(II) has occurred "within the last FOUR years" and that steps should be taken to remedy the breach by Section 173 4(a) or to remedy any amenity or injury which has been caused by the breach.
- III. The material change of use impacts adversely on the occupiers of the upper floors of the building and the adjoining occupiers, by reasons of overlooking, excessive noise nuisance, smoke and general disturbance contrary to Policies DM1 'Delivering High Quality Design', DM23 'Environmental Protection of the Development Management DPD 2017 and SP10 'Town Centres' of the Local Plan 2017 and Policy 7.15 'Reducing And Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes' of the London Plan 2016.
- IV. The unauthorised enclosing alterations and structures to the rear garden by reason of their size, design and materials do not relate positively to neighbouring structures, new or old, to create a harmonious whole and are detrimental to surrounding visual



amenity. Furthermore they do not make a positive contribution, nor improve the character and quality of the area contrary to Policy DM1 'Delivering High Quality Design' of the Development Management DPD 2017 and SP11 'Design' of the Local Plan 2017 (as amended) and policies 7.4 'Local Character', 7.6 'Architecture' of the London Plan (2016).

- V. The unauthorised enclosing alterations in the rear garden do not complement the architectural style, scale, proportions, materials and details of the host building and appear overbearing contrary to Policy DM9 'Management of the Historic Environment' of the Development Management DPD 2017 and SP12 'Conservation' of the Local Plan 2017 and Policies 7.4 'Local Character', 7.6 'Architecture' and 7.8 'Heritage Assets and Archaeology' of the London Plan (2016).

5. WHAT YOU ARE REQUIRED TO DO

1. Cease the use of the rear of the ground floor as a shisha bar;
2. Remove the enclosing structures along and or attached to the side and rear boundaries;
3. Remove all the enclosing structures covering over the rear garden excepting the retractable canopy.
4. Remove from the land all resultant debris as a result of carrying out the above requirements of steps 2, 3.

Time for compliance: One (1) month after this notice takes effect.

6. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 19 March 2019 unless an appeal is made against it beforehand.

Dated: 13 February 2019

Signed: 

Fortune Gumbo
Acting Team Leader Planning Enforcement and Appeals
London Borough of Haringey
6th Floor River Park House
225 High Road
London N22 8HQ



YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before 19/03/2019. The enclosed letter from the Planning Inspectorate sets out your rights and advises on the appeal procedure.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on 19/03/2019 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the periods specified in the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.



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Town and Country Planning Act 1990 (As amended)

Site Location Map

256 Archway Road, London N6 5AX

**Directorate of
Place and
Sustainability**

Emma Williamson
Assistant Director PRE
LB Haringey 225 High Road
London N22 8HQ

Drawn by	SG
Scale	1:1250
Date	15/02/2019
Drawing	10541

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Appendix 3 – Representations from Residents

From: [REDACTED]

Sent: 14 August 2021 11:51

To: Licensing <Licensing.Licensing@haringey.gov.uk>

Cc: Barrett Daliah <Daliah.Barrett@haringey.gov.uk>; [REDACTED]

[REDACTED] Cllr Morris Liz <Liz.Morris@haringey.gov.uk>

Subject: Re: FW: Application for a Premises Licence- Divina Kitchen Ltd, 256 Archway Road, London N6 5AX (WK/507295)

Hello,

Please find attached a representation regarding the license application for Divina Kitchen Ltd, 256 Archway Road, London N6 5AX.

Please find attached a pdf and word document, with our representation. We have also pasted the representation into the main body of email below, for your reference.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

I would appreciate it if you could confirm receipt of this representation.

Thanks,

[REDACTED]

The Applicant, Divina Kitchen Limited, is seeking a new license to convert business premises at 256 Archway Road, Highgate N6 5AX, which was most recently an Italian restaurant, into a late night bar featuring recorded and live music seven days per week.

We as the owners and occupier of a residential property on the West side of Holmesdale Road, which is within close proximity to the premises, wish to make representations to the effect that the application should be rejected in its current form because the nature of the locality means that, per the Haringey Statement of Licensing Policy, these premises are not at all suitable for use as a late night bar with recorded and live music.

SUMMARY

- The floor plan provided by the Applicant is misleading. The area marked “Seating Area” to the rear of the Premises is in fact an open air back yard which has been covered with a fabric canopy and converted to a beer garden. In fact, the Applicant promotes this area in the front window as a “Garden”;
- Whilst the front of Divina’s premises face Archway Road which is a “main road well served by public transport”; the rear of the Premises is situated in a quiet residential area;
- Divina’s open air beer garden backs directly into the gardens of 31 and 33 Holmesdale Road and sound emanating from Divina impacts on many other adjacent properties, including number 29 Holmesdale Road;
- During the months since Divina has opened its beer garden, we and other residents of Holmesdale Rd and Archway Rd have endured constant noise nuisance from Divina’s beer garden (i.e. “Nuisance Outside of Premises”) and also noise nuisance escaping from the main restaurant via the open back door which provides access to the beer garden (i.e. “Nuisance from Within Premises”);

- There is a single rear door from the interior to the Beer Garden which must be kept constantly open to facilitate customers and employees passing between the Beer Garden to the Restaurant in order to reach the adjacent bar and bathrooms. Noise inevitably escapes;
- This is especially the case at weekends when the noise from Divina is constant through the afternoons and late into the night. It is a mix of raised voices, recorded music and live karaoke;
- Many Holmesdale Road residents, affected by noise nuisance from Divina and have filed complaints with Haringey – to little or no effect;
- We do not believe that the management of Divina has undertaken the recommended “risk assessment” taken any of the provisions of the Haringey Statement of Licensing Policy prior to making their application;
- Even the most basic analysis of the premises and the locality in the context of the provisions of the Haringey Statement of Licensing Policy would have established that open air beer gardens situated in quiet residential areas are not suitable for a late night bar with live and recorded music.
- Nor has the Applicant implemented any of the specific steps recommended in the Haringey Statement of Licensing Policy to ensure that local residents are not affected by noise caused by either Nuisance Outside of Premises or Nuisance from Within Premises.
- In an era of social distancing, we appreciate that some greater flexibility may be needed for restaurants to provide properly managed open air seating during the early part of the evening, but we do not think that this means we should have to endure a night club or a karaoke bar in our back garden.

DETAILED ANALYSIS

The Premises

At ground level, 256 Archway Road is one of a row of shops on the West side of Archway Road descending from the junction with Holmesdale Rd to the Archway Road Bridge.

In recent years, the shop at 256 Archway Road has been converted for use as a restaurant – as is also the case with a number of other shops in the row.

The Applicant has converted the back yard of the restaurant into a beer garden with a canopy above and some wooden boards to the side. The beer garden contains half a dozen tables and seating for about 40 persons. There is also a television set.

This application to change licensed use from that of a restaurant to a late night bar with recorded and live music is wholly new.

As described in the floor plan attached to the Application, the Premises comprise two distinct elements: (i) an indoor front area (which was originally the shop/restaurant); and (ii) an outdoor yard at the back, which the Applicant has converted into a beer garden.

In the Applicant's floor plan attached to Application, The indoor restaurant area (i) is described as "Restaurant Seating Area"; whilst the outdoor yard area or beer garden (ii) is described, somewhat misleadingly as "Seating Area".

The indoor area is separated from the outdoor area by means of a single door which must either be kept open – or opened and closed constantly – to facilitate access to the bar and bathrooms.

The Locality

It is true that the front part of the Premises face onto Archway Road – which is a "busy main road with public transport access. So at first sight, this zone might be considered a suitable location for a bar.

However, the character of the zone to the rear of the premises is quite different. As a result of the topography and camber of the hill, none of the traffic or other noises from Archway Road is audible. This is a very quiet area. The residents of nearby houses in Holmesdale Road and Archway Road have, until recently, been able to enjoy the peaceful use of their gardens and the rooms to the rear of their properties without any disturbance.

However, because the zone to the rear of the premises, in contrast to the front, is such a quiet residential neighbourhood, any form of noise pollution emanating from the Premises via the open air beer garden to the rear of the Premises – whether recorded music or live karaoke or raised voices – stands out a great deal and generates significant noise pollution which prevents the occupants from the quiet enjoyment of their homes and gardens to which they are entitled - and causes a public nuisance.

Nature of the Public Nuisance

In recent months, significant noise pollution has been emanating from the rear of the Premises. At different times, the noise takes the form of recorded music, karaoke, singing and raised voices. The noise pollution continues from mid-afternoon until after midnight – especially at weekends.

Granting such a license would fundamentally change the character of the area. We purchased our home in early January 2020 to start a family, given that it was a quiet residential area. We have been blessed with a baby boy, born on 14th November 2020. This disturbance has greatly affected our quality of life. We can no longer enjoy our family garden when loud music, shouting, cheering et al is emanating from 256 Archway road rear garden and have to stay inside our house, with all windows and doors closed.

Our son's nursery room is located at the back of our house (29 Holmesdale Road). During live/recorded music sessions, shouting and cheering et al from 256 Archway rear garden, we have had to move him to a room at the front of our house and, as the noise continues to wake and upset him. With regard protection of children, this is not sustainable and we need the nursery room to be a quiet, safe space for our son to sleep undisturbed.

On numerous occasions when this has occurred, local residents have filed many complaints with Haringey Council. We have lodged a number of ongoing complaints against the applicant. Haringey council provided the following case ID's for reference:

WK-502794

WK-497522

Some examples of complaints we have lodged with Haringey. We have also lengthy correspondence via telephone and email on this issue, over a period of months. Concerned residents have also issued a letter to Haringey Council, outlining their concerns over this ongoing issue.

Submitted: 04/07/2021, 20:16. Noise Problem Reference ID: HC-11519836 Problem description: Playing of loud, live music on Sunday 4/7/21 (approx 1400 - 1800). A lot of shouting, cheering, singing along etc and the guitar music appears to be played through a amplifier which is very loud.
Submitted: 07/06/2021, 10:47. Noise Problem Reference ID: HC-11495712 Problem description: Il Peperoncino, 256 Archway Rd, London N6 5AX was playing live music on Saturday (1300 - 2300) and Sunday (1300 - 2100). A lot of shouting, cheering, singing along etc and the music appears to be played through a amplifier which is very loud.
Submitted: 26/06/2021, 21:32. Noise Problem Reference ID: HC-11511865 Noise happening now: Yes Problem description: Loud music, shouting, cheering and singing. Occurring from early afternoon on Saturday

However, the owners and management of Divina have proved either unwilling or unable to do anything to prevent the noise emanating from the rear of the building and from the beer garden.

The Boogaloo/ Village Square Karaoke

There are two bars with late night licences and live music in the area. These are The Boogaloo at 312 Archway Road near to Highgate Tube Station; and Village Square Karaoke (formerly Caiparinha) at 177 Archway Road by the junction with Cromwell Avenue.

The Boogaloo offers late night bar with live and recorded music and has an open air beer garden. However, the beer garden to the rear is insulated from the bar area by two self closing fire doors and a passageway. No noise from live music or recorded music being played in the bar is audible in the beer garden.

Village Square Karaoke is well insulated - and does not have any open air space.

312 and 177 Archway Road are situated at a greater distance from the residential areas.

Haringey Statement of Licensing Policy

It is stated in Councilor White's preface that the Prevention of Public Nuisance is one of the four licensing objectives and this is repeated in Section 8.

In Paragraph 8.2, it is stated that "*protecting the public and local residents from... noise nuisance...*" is "*vitaly important and should be a principal aim of everyone involved in licensing work*"

In Paragraph 16.10 Location and Other Relevant Considerations, it is stated that when considering new applications for licenses, a number of matters should be taken into account including the following in particular:

- (i) The type and mix of premises in the local area;
- (ii) The location of the premises and their character;
- (iii) The proposed hours of operation;
- (iv) The physical suitability of the premises for the proposed licensable activities i.e. in terms of safety – access – noise control.

It seems to us that the premises are not at all physically suitable for the proposed licensed activities.

First – it seems totally impossible to implement noise control in an open-air space. Second, it seems impossible to isolate sounds emanating from an indoor space from adjacent open-air space without two separate self-closing doors.

In Paragraph 16.10 High Standards of Management, the Haringey Statement of Licensing Policy indicates that the Applicant should – amongst other things

- (i) have researched the local area and can demonstrate understanding of local community concerns;
- (ii) has carried out relevant risk assessments and devised an appropriate strategy to promote the licensing objectives.

We are concerned that the Applicant has not undertaken a risk assessment.

Prevention of Public Nuisance under the Haringey Statement of Licensing Policy

Section 20 of the Haringey Statement of Licensing Policy relates to Public Nuisance and to Noise Nuisance in particular.

Paragraph 20.1 notes that nuisance is best managed by careful consideration of the suitability of the selected site at an early stage. It also states categorically that the Authority expects applicants to have made relevant enquiries about the local area before submitting their application.

We represent that, whilst the Archway Road is a “main road well served by public transport” and suitable for “locating licensable activities”, the rear of the premises forms part of a very different zone. If the applicants had undertaken a risk assessment of potential sources of nuisance to the local community as recommended in Paragraph 20.2 – they would have appreciated the potential source of nuisance to the rear and taken this into account prior to deciding whether to make an application for a late night bar.

In this regard, paragraph 20.2 highlights as relevant considerations for such a risk assessment as

“Preventing noise and vibration escaping from the premises, including from music played on the premises, public address systems and customer noise” and

“controlling disturbance that may be caused by the use of external areas. This should include gardens and terraces as well as other open air areas...”

Preventing Nuisance Outside of Premises

This is highly relevant because the Applicant has converted the yard into a beer garden.

Section 20.8 Preventing Nuisance Outside of Premises “Nuisance caused by patrons outside of premises, whether by patrons queueing for entry or enjoying the facility of a beer garden or terrace...is of considerable concern to local residents. This forms the basis for many of the complaints received within the Authority especially through the summer months.

Section 20.9 “Licensees have a responsibility for the conduct of their customers while they are in and around their premises. If provision is made for customers to congregate or smoke outside of premises, then sufficient management controls must be put into place to ensure that no nuisance or disturbance is caused to local residents”

As the Haringey Statement of Licensing Policy foresees, we and our neighbours have had to file many complaints during the summer. We are not aware of any management controls being implemented. If any management controls have been implemented, they have proved wholly ineffective.

Preventing Nuisance from Within Premises

This is also relevant as much of the noise nuisance appears to be caused by noise generated inside the Premises which escapes via the door to the external beer garden into the residential zone.

Paragraph 20.11 states “Nuisance may often be caused by sound escaping from the premises or transmitted through the structure of the building. While some simple management steps may be taken to reduce the problem, it should be understood that in some premises physical works may be necessary to prevent nuisance being caused to local residents.”

And it goes on to say: “The likelihood of this increases where regulated entertainments are to be provided; the later the intended hour of operation; where residents live adjacent to, above or close by the premises; or where there are other noise sensitive premises close by”

We would represent that in the case of this Application, almost all of these apply – (i) regulated entertainments; (ii) late hours; (iii) residents living adjacent to, above and close by.

Paragraph 20.12 lists a number of measures that the Authority expects to be considered and applied appropriate to the risk of nuisance. These include:

- (i) ...management and control of entrance/exit lobbies so as to ensure the integrity of the premises is maintained and internal sound contained;
- (ii) the provision of acoustic double door lobbies of an adequate residence time;
- (iii) the provision of acoustic seals and self closers on all doors;
- (iv) installation of sound resistant double glazing;
- (v) keeping doors and windows closed where performances of regulated entertainment take place.

So far as we are aware, none of these measures have been considered or applied.

We also believe, taking into account the nature of these premises, that it may not be either possible or practicable to implement these measures, since patrons and staff must constantly be moving to and from between the interior bar area and the exterior beer garden. Even if the doorway is properly managed, it will inevitably be opened and closed constantly – allowing the sound to escape.

From: [REDACTED]
Sent: 14 August 2021 15:22
To: Licensing <Licensing.Licensing@haringey.gov.uk>
Cc: Barrett Daliah <Daliah.Barrett@haringey.gov.uk>; [REDACTED]
[REDACTED] Cllr Morris Liz
<Liz.Morris@haringey.gov.uk>; [REDACTED]
Subject: Re: FW: Application for a Premises Licence- Divina Kitchen Ltd, 256 Archway Road, London N6 5AX (WK/507295)

Dear Licensing,

Please find attached a representation regarding the license application for Divina Kitchen Ltd, 256 Archway Road, London N6 5AX.

[REDACTED]
[REDACTED]
[REDACTED]

There are two attached PDF files:

1. *Divina_Opposition_West_Engelmore.pdf*. This contains the text of our representation.
2. *Evidence.pdf*. This contains some photos and images referred to in the text.

The text of document 1 is also pasted below.

Please confirm receipt of this representation.

Kind regards,

Full text of representation contained in *Divina_Opposition_West_Engelmore.pdf*

Representation regarding premises licence application from Divina Kitchen Ltd, 256 Archway Road

This representation is from [REDACTED]

The Applicant, Divina Kitchen Limited, is seeking a new licence to convert business premises at 256 Archway Road, Highgate N6 5AX, which was most recently an Italian restaurant, into a late night bar featuring recorded and live music seven days per week.

We as the owners and occupier of a residential property on the West side of Holmesdale Road, which is adjacent to the Premises wish to make representations to the effect that the Application should be rejected in its current form because the nature of the locality means that, per the Haringey Statement of Licensing Policy, these Premises are not at all suitable for use as a late night bar with recorded and live music.

Our garden directly abuts the Applicant's outdoor beer garden – described further below – and we have been severely impacted by the noise emanating from it. We have submitted 10 noise complaints to Haringey, starting on April 25¹ (please note that some of the complaints use the Applicant's previous name: Il Peperoncino). There have in addition been many other occurrences of noise nuisance that we have not complained about, since it is not always convenient to do so. In fact, the noise occurs most weekends.

In the application, Divina states "WE WILL ALWAYS BE CONSIDERED TO OUR NEIGHBOURS AND LOCAL RESIDENTS KEEPING THE NOISE TO A MINIMUM AND RESPECT THE TIME ALLOWANCE GIVEN TO THE PREMISES BY THE LOCAL

AUTHORITY." This assurance has already been demonstrated to be false by the Applicant's behaviour in 2021.

In section 16.11 ('High standards of management') in the Haringey Statement of Licensing Policy 2021-2026, the following requirement appears: "Is able to demonstrate a track record of compliance with legal requirements". We would like to draw your attention the fact that the Applicant has been advertising and serving alcoholic beverages and hosting live music as an unlicensed operator for months, contrary to legal requirements. We have compiled our evidence for this into a single document for your convenience (attached to the email).

The rest of this representation was composed in collaboration with our neighbours on Holmesdale Road, and goes into further detail on noise issues and public nuisance.

SUMMARY

- The floor plan provided by the Applicant is misleading. The area marked "Seating Area" to the rear of the Premises is in fact an open air back yard which has been covered with a fabric canopy and converted to a beer garden. In fact, the Applicant promotes this area in the front window as a "Garden";
- Whilst the front of Divina's premises face Archway Road which is a "main road well served by public transport"; the rear of the Premises is situated in a quiet residential area;
- Divina's open air beer garden backs directly into the gardens of 31 and 33 Holmesdale Road and sound emanating from Divina impacts on many other adjacent properties;
- During the months since Divina has opened its beer garden, we and other residents of Holmesdale Rd and Archway Rd have endured constant noise nuisance from Divina's beer garden (i.e. "Nuisance Outside of Premises") and also noise nuisance escaping from the main restaurant via the open back door which provides access to the beer garden (i.e. "Nuisance from Within Premises");
- There is a single rear door from the interior to the Beer Garden which must be kept constantly open to facilitate customers and employees passing between the Beer Garden to the Restaurant in order to reach the adjacent bar and bathrooms. Noise inevitably escapes;
- This is especially the case at weekends when the noise from Divina is constant through the afternoons and late into the night. It is a mix of raised voices, recorded music and live karaoke;
- Many Holmesdale Road residents, affected by noise nuisance from Divina and have filed complaints with Haringey – to little or no effect;
- We do not believe that the management of Divina has undertaken the recommended "risk assessment" taken any of the provisions of the Haringey Statement of Licensing Policy prior to making their application;

- Even the most basic analysis of the premises and the locality in the context of the provisions of the Haringey Statement of Licensing Policy would have established that open air beer gardens situated in quiet residential areas are not suitable for a late night bar with live and recorded music.
- Nor has the Applicant implemented any of the specific steps recommended in the Haringey Statement of Licensing Policy to ensure that local residents are not affected by noise caused by either Nuisance Outside of Premises or Nuisance from Within Premises.
- In an era of social distancing, we appreciate that some greater flexibility may be needed for restaurants to provide properly managed open air seating during the early part of the evening, but we do not think that this means we should have to endure a night club or a karaoke bar in our back garden.
- Granting such a licence would fundamentally change the character of the area.

DETAILED ANALYSIS

The Premises

At ground level, 256 Archway Road is one of a row of shops on the West side of Archway Road descending from the junction with Holmesdale Rd to the Archway Road Bridge.

In recent years, the shop at 256 Archway Road has been converted for use as a restaurant – as is also the case with a number of other shops in the row.

The Applicant has converted the back yard of the restaurant into a beer garden with a canopy above and some wooden boards to the side. The beer garden contains half a dozen tables and seating for about 40 persons. There is also a television set.

This application to change licensed use from that of a restaurant to a late night bar with recorded and live music is wholly new.

As described in the floor plan attached to the Application, the Premises comprise two distinct elements: (i) an indoor front area (which was originally the shop/restaurant); and (ii) an outdoor yard at the back, which the Applicant has converted into a beer garden.

In the Applicant's floor plan attached to Application, The indoor restaurant area (i) is described as "Restaurant Seating Area"; whilst the outdoor yard area or beer garden (ii) is described, somewhat misleadingly as "Seating Area".

The indoor area is separated from the outdoor area by means of a single door which must either be kept open – or opened and closed constantly – to facilitate access to the bar and bathrooms.

The Locality

It is true that the front part of the Premises face onto Archway Road – which is a "busy main road with public transport access.. So at first sight, this zone might be considered a suitable location for a bar.

However, the character of the zone to the rear of the premises is quite different. As a result of the topography and camber of the hill, none of the traffic or other noises from Archway Road is audible. This is a very quiet area. The residents of nearby houses in Holmesdale Road and Archway Road have, until recently, been able to enjoy the peaceful use of their gardens and the rooms to the rear of their properties without any disturbance.

However, because the zone to the rear of the premises, in contrast to the front, is such a quiet residential neighbourhood, any form of noise pollution emanating from the Premises via the open air beer garden to the rear of the Premises – whether recorded music or live karaoke or raised voices – stands out a great deal and generates significant noise pollution which prevents the occupants from the quiet enjoyment of their homes and gardens to which they are entitled - and causes a public nuisance.

Nature of the Public Nuisance

In recent months, significant noise pollution has been emanating from the rear of the Premises. At different times, the noise takes the form of recorded music, karaoke, singing and raised voices. The noise pollution continues from mid afternoon until after midnight – especially at week ends. We cannot use our gardens or open the windows.

It cannot be emphasized enough how badly this has affected our quality of life and mental health. We rely on our garden as a sanctuary in which to relax and refresh ourselves in the evenings and at weekends. We also use it as a quiet space in which to work, which is especially important now that we are both working at home due to the Covid pandemic.

All of these benefits are now often unavailable to us, thanks to Divina's noise pollution. We cannot even let in fresh air from the back windows and doors of the house when the noise is ongoing.

On numerous occasions when this has occurred, local residents have filed many complaints with Haringey Council.

However, the owners and management of Divina have proved either unwilling or unable to do anything to prevent the noise emanating from the rear of the building and from the beer garden.

The Boogaloo/ Village Square Karaoke

There are two bars with late night licences and live music in the area. These are The Boogaloo at 312 Archway Road near to Highgate Tube Station; and Village Square Karaoke (formerly Caiparinha) at 177 Archway Road by the junction with Cromwell Avenue.

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Village Square Karaoke is well insulated - and does not have any open air space.

312 and 177 Archway Road are situated at a greater distance from the residential areas.

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It is stated in Councilor White's preface that the Prevention of Public Nuisance is one of the four licensing objectives and this is repeated in Section 8.

In Paragraph 8.2, it is stated that "*protecting the public and local residents from... noise nuisance...*" is "*vitally important and should be a principal aim of everyone involved in licensing work*"

In Paragraph 16.10 Location and Other Relevant Considerations, it is stated that when considering new applications for licenses, a number of matters should be taken into account including the following in particular:

- i. The type and mix of premises in the local area;
- ii. The location of the premises and their character;
- iii. The proposed hours of operation;
- iv. The physical suitability of the premises for the proposed licenseable activities i.e. in terms of safety – access – noise control.

It seems to us that the premises are not at all physically suitable for the proposed licenced activities.

First – it seems totally impossible to implement noise control in an open air space. Second, it seems impossible to isolate sounds emanating from an indoor space from adjacent open air space without two separate self-closing doors.

In Paragraph 16.10 High Standards of Management, the Haringey Statement of Licensing Policy indicates that the Applicant should – amongst other things

- i. have researched the local area and can demonstrate understanding of local community concerns;
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Paragraph 20.1 notes that nuisance is best managed by careful consideration of the suitability of the selected site at an early stage. It also states categorically that the Authority expects applicants to have made relevant enquiries about the local area before submitting their application.

We represent that, whilst the Archway Road is a "main road well served by public transport" and suitable for "locating licenseable activities:", the rear of the premises forms part of a very different zone. If the applicants had undertaken a risk assessment of potential sources of nuisance to the local community as recommended in Paragraph 20.2 – they would have appreciated the

potential source of nuisance to the rear and taken this into account prior to deciding whether to make an application for a late night bar.

In this regard, paragraph 20.2 highlights as relevant considerations for such a risk assessment as

“Preventing noise and vibration escaping from the premises, including from music played on the premises, public address systems and customer noise” and

“controlling disturbance that may be caused by the use of external areas. This should include gardens and terraces as well as other open air areas...”

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This is highly relevant because the Applicant has converted the yard into a beer garden.

Section 20.8 Preventing Nuisance Outside of Premises “Nuisance caused by patrons outside of premises, whether by patrons queueing for entry or enjoying the facility of a beer garden or terrace...is of considerable concern to local residents. This forms the basis for many of the complaints received within the Authority especially through the summer months.

Section 20.9 “Licensees have a responsibility for the conduct of their customers while they are in and around their premises. If provision is made for customers to congregate or smoke outside of premises, then sufficient management controls must be put into place to ensure that no nuisance or disturbance is caused to local residents”

As the Haringey Statement of Licensing Policy foresees, we and our neighbours have had to file many complaints during the summer. We are not aware of any management controls being implemented. If any management controls have been implemented, they have proved wholly ineffective.

Preventing Nuisance From Within Premises

This is also relevant as much of the noise nuisance appears to be caused by noise generated inside the Premises which escapes via the door to the external beer garden into the residential zone.

Paragraph 20.11 states “Nuisance may often be caused by sound escaping from the premises or transmitted through the structure of the building. While some simple management steps may be taken to reduce the problem, it should be understood that in some premises physical works may be necessary to prevent nuisance being caused to local residents.”

And it goes on to say: “The likelihood of this increases where regulated entertainments are to be provided; the later the intended hour of operation; where residents live adjacent to, above or close by the premises; or where there are other noise sensitive premises close by”

We would represent that in the case of this Application, almost all of these apply – (i) regulated entertainments; (ii) late hours; (iii) residents living adjacent to, above and close by.

Paragraph 20.12 lists a number of measures that the Authority expects to be considered and applied appropriate to the risk of nuisance. These include:

- i. ...management and control of entrance/exit lobbies so as to ensure the integrity of the premises is maintained and internal sound contained;
- ii. the provision of acoustic double door lobbies of an adequate residence time;
- iii. the provision of acoustic seals and self closers on all doors;
- iv. installation of sound resistant double glazing;
- v. keeping doors and windows closed where performances of regulated entertainment take place.

So far as we are aware, none of these measures have been considered or applied.

We also believe, taking into account the nature of these Premises, that it may not be either possible or practicable to implement these measures, since patrons and staff must constantly be moving to and from between the interior bar area and the exterior beer garden. Even if the doorway is properly managed, it will inevitably be opened and closed constantly – allowing the sound to escape.

1Complaint references: HC-11448233, HC-11482902, HC-11483730, HC-11496087, HC-11499705, HC-11505492, HC-11511858, HC-11512089, HC-11519679, HC-11556997.



Figure 1: Corona beer consumption on the premises.



Figure 2: Brahma beer consumption (and probably cocktails) on the premises, with advertising of garden and beer/wine/cocktails in the window.



Figure 3: Beer advert on Facebook, 9 July. "How about refreshing yourself with an Italian beer?"



Figure 4: Cocktail advert on Facebook, 28 July.



Figure 5: Beer advert on Facebook, 6 August.



Figure 6: Advert for live music on Facebook, 12 June.



Figure 7: Advert for live music on Facebook, 19 June.

-----Original Message-----

From: [REDACTED]

Sent: 15 August 2021 15:47

To: Licensing <Licensing.Licensing@haringey.gov.uk>

Cc: [REDACTED] Barrett Daliah <Daliah.Barrett@haringey.gov.uk>; [REDACTED]

[REDACTED] Cllr Morris Liz

Subject: Representation re Application for a Premises Licence- Divina Kitchen Ltd, 256 Archway Road, London N6 5AX (WK/507295)

This representation is from [REDACTED]

The Applicant, Divina Kitchen Limited, is seeking a new license to convert business premises at 256 Archway Road, Highgate N6 5AX, which was most recently an Italian restaurant, into a late night bar featuring recorded and live music seven days per week.

We as the owners and occupier of a residential property on the West side of Holmesdale Road, which is adjacent to the Premises wish to make representations to the effect that the Application should be rejected in its current form because the nature of the locality means that, per the Haringey Statement of Licensing Policy, these Premises are not at all suitable for use as a late night bar with recorded and live music.

Our garden is close to the outdoor area of the restaurant Divina (previously Il Pepperoncino) and therefore we have been experiencing first-hand the regular noise disturbance emanating from the premises.

From this experience, and despite the Applicant's good assurances in this application (see below History of non-compliance with Legal requirements), we have absolutely no trust in the Applicant's ability to comply with the restrictions of this license. We have in fact logged noise complaints several times without any results today and this, despite the fact that Haringey council had visited several times the premises to inform the owners of the noise nuisance. We are also aware that despite current restrictions on their temporary license, they have served alcoholic beverages and played live/recorded music in complete violation of the law.

The following is largely based on the representation prepared collectively with other neighbours of Holmesdale Road, with the exception of the Other considerations.

SUMMARY

- The floor plan provided by the Applicant is misleading. The area marked "Seating Area"
- to the rear of the Premises is in fact an open air back yard which has been covered with
- a fabric canopy and converted to a beer garden. In fact, the Applicant promotes this area
- in the front window as a "Garden";
- Whilst the front of Divina's premises face Archway Road which is a "main road well served
- by public transport"; the rear of the Premises is situated in a quiet residential area;
- Divina's open air beer garden backs directly into the gardens of 31 and 33 Holmesdale
- Road and sound emanating from Divina impacts on many other adjacent properties;
- During the months since Divina has opened its beer garden, we and other residents of
- Holmesdale Rd and Archway Rd have endured constant noise nuisance from Divina's
- beer garden (i.e. "Nuisance Outside of Premises") and also noise nuisance escaping from
- the main restaurant via the open back door which provides access to the beer garden (i.e.
- "Nuisance from Within Premises");
- There is a single rear door from the interior to the Beer Garden which must be kept
- constantly open to facilitate customers and employees passing between the Beer Garden
- to the Restaurant in order to reach the adjacent bar and bathrooms. Noise inevitably
- escapes;
- This is especially the case at weekends when the noise from Divina is constant through
- the afternoons and late into the night. It is a mix of raised voices, recorded music and live
- karaoke;
- Many Holmesdale Road residents, affected by noise nuisance from Divina and have filed
- complaints with Haringey – to little or no effect;
- We do not believe that the management of Divina has undertaken the recommended "risk
- assessment" taken any of the provisions of the Haringey Statement of Licensing Policy
- prior to making their application;
- Even the most basic analysis of the premises and the locality in the context of the
- provisions of the Haringey Statement of Licensing Policy would have established that open
- air beer gardens situated in quiet residential areas are not suitable for a late night bar with
- live and recorded music.
- Nor has the Applicant implemented any of the specific steps recommended in the

- Haringey Statement of Licensing Policy to ensure that local residents are not affected by
- noise caused by either Nuisance Outside of Premises or Nuisance from Within Premises.
- In an era of social distancing, we appreciate that some greater flexibility may be needed
- for restaurants to provide properly managed open air seating during the early part of the
- evening, but we do not think that this means we should have to endure a night club or a
- karaoke bar in our back garden.
- Granting such a licence would fundamentally change the character of the area.

DETAILED ANALYSIS

The Premises

At ground level, 256 Archway Road is one of a row of shops on the West side of Archway Road descending from the junction with Holmesdale Rd to the Archway Road Bridge.

In recent years, the shop at 256 Archway Road has been converted for use as a restaurant – as is also the case with a number of other shops in the row.

The Applicant has converted the back yard of the restaurant into a beer garden with a canopy above and some wooden boards to the side. The beer garden contains half a dozen tables and seating for about 40 persons. There is also a television set.

This application to change licensed use from that of a restaurant to a late night bar with recorded and live music is wholly new.

As described in the floor plan attached to the Application, the Premises comprise two distinct elements: (i) an indoor front area (which was originally the shop/restaurant); and (ii) an outdoor yard at the back, which the Applicant has converted into a beer garden.

In the Applicant's floor plan attached to Application, The indoor restaurant area (i) is described as "Restaurant Seating Area"; whilst the outdoor yard area or beer garden (ii) is described, somewhat misleadingly as "Seating Area".

The indoor area is separated from the outdoor area by means of a single door which must either be kept open – or opened and closed constantly – to facilitate access to the bar and bathrooms.

The Locality

It is true that the front part of the Premises face onto Archway Road – which is a "busy main road with public transport access. Consequently, at first sight, this zone might be considered a suitable location for a bar.

However, the character of the zone to the rear of the premises is quite different. As a result of the topography and camber of the hill, none of the traffic or other noises from Archway Road is audible. This is a very quiet area. The residents of nearby houses in Holmesdale Road and Archway Road have, until recently, been able to enjoy the peaceful use of their gardens and the rooms to the rear of their properties without any disturbance.

However, because the zone to the rear of the premises, in contrast to the front, is such a quiet residential neighbourhood, any form of noise pollution emanating from the Premises via the open air beer garden to the rear of the Premises – whether recorded music or live karaoke or raised voices – stands out a great deal and generates significant noise pollution which prevents the occupants from the quiet enjoyment of their homes and gardens to which they are entitled - and causes a public nuisance.

Nature of the Public Nuisance

In recent months, significant noise pollution has been emanating from the rear of the Premises

At different times, the noise takes the form of recorded music, karaoke, singing and raised voices. The noise pollution continues from mid-afternoon until after midnight – especially at week-ends. We cannot use our gardens or open the windows. Children in rear facing bedrooms are unable to sleep.

On numerous occasions when this has occurred, local residents have filed many complaints with Haringey Council.

However, the owners and management of Divina have proved either unwilling or unable to do anything to prevent the noise emanating from the rear of the building and from the beer garden.

The Boogaloo/ Village Square Karaoke

There are two bars with late night licences and live music in the area. These are The Boogaloo at 312 Archway Road near to Highgate Tube Station; and Village Square Karaoke (formerly Caiparinha) at 177 Archway Road by the junction with Cromwell Avenue.

The Boogaloo offers late night bar with live and recorded music and has an open-air beer garden. However, the beer garden to the rear is insulated from the bar area by two self-closing fire doors and a passageway. No noise from live music or recorded music being played in the bar is audible in the beer garden.

Village Square Karaoke is well insulated - and does not have any open-air space.

312 and 177 Archway Road are situated at a greater distance from the residential areas.

Haringey Statement of Licensing Policy

It is stated in Councillor White's preface that the Prevention of Public Nuisance is one of the four licensing objectives and this is repeated in Section 8.

In Paragraph 8.2, it is stated that "protecting the public and local residents from... noise nuisance..." is "vitaly important and should be a principal aim of everyone involved in licensing work"

In Paragraph 16.10 Location and Other Relevant Considerations, it is stated that when considering new applications for licenses, a number of matters should be taken into account including the following in particular:

- (i) The type and mix of premises in the local area;
- (ii) The location of the premises and their character;
- (iii) The proposed hours of operation;
- (iv) The physical suitability of the premises for the proposed licensable activities i.e. in terms of safety – access – noise control.

It seems to us that the premises are not at all physically suitable for the proposed licenced activities.

First – it seems totally impossible to implement noise control in an open-air space. Second, it seems impossible to isolate sounds emanating from an indoor space from adjacent open-air space without two separate self-closing doors.

In Paragraph 16.10 High Standards of Management, the Haringey Statement of Licensing Policy indicates that the Applicant should – amongst other things

- (i) have researched the local area and can demonstrate understanding of local community concerns;

- (ii) has carried out relevant risk assessments and devised an appropriate strategy to promote the licensing objectives.

We are concerned that the Applicant has not undertaken a risk assessment.

Prevention of Public Nuisance under the Haringey Statement of Licensing Policy

Section 20 of the Haringey Statement of Licensing Policy relates to Public Nuisance and to Noise Nuisance in particular.

Paragraph 20.1 notes that nuisance is best managed by careful consideration of the suitability of the selected site at an early stage. It also states categorically that the Authority expects applicants to have made relevant enquiries about the local area before submitting their application.

We represent that, whilst the Archway Road is a “main road well served by public transport” and suitable for “locating licensable activities, the rear of the premises forms part of a very different zone. If the applicants had undertaken a risk assessment of potential sources of nuisance to the local community as recommended in Paragraph 20.2 – they would have appreciated the potential source of nuisance to the rear and taken this into account prior to deciding whether to make an application for a late night bar.

In this regard, paragraph 20.2 highlights as relevant considerations for such a risk assessment as

“Preventing noise and vibration escaping from the premises, including from music played on the premises, public address systems and customer noise” and

“controlling disturbance that may be caused by the use of external areas. This should include gardens and terraces as well as other open-air areas...”

Preventing Nuisance Outside of Premises

This is highly relevant because the Applicant has converted the yard into a beer garden.

Section 20.8 Preventing Nuisance Outside of Premises “Nuisance caused by patrons outside of premises, whether by patrons queuing for entry or enjoying the facility of a beer garden or terrace...is of considerable concern to local residents. This forms the basis for many of the complaints received within the Authority especially through the summer months.

Section 20.9 “Licensees have a responsibility for the conduct of their customers while they are in and around their premises. If provision is made for customers to congregate or smoke outside of premises, then sufficient management controls must be put into place to ensure that no nuisance or disturbance is caused to local residents”

As the Haringey Statement of Licensing Policy foresees, we and our neighbours have had to file many complaints during the summer. We are not aware of any management controls being implemented. If any management controls have been implemented, they have proved wholly ineffective.

Preventing Nuisance From Within Premises

This is also relevant as much of the noise nuisance appears to be caused by noise generated inside the Premises which escapes via the door to the external beer garden into the residential zone.

Paragraph 20.11 states “Nuisance may often be caused by sound escaping from the premises or transmitted through the structure of the building. While some simple management steps may be taken to reduce the problem, it should be understood that in some premises physical works may be necessary to prevent nuisance being caused to local residents.”

And it goes on to say: “The likelihood of this increases where regulated entertainments are to be provided; the later the intended hour of operation; where residents live adjacent to, above or close by the premises; or where there are other noise sensitive premises close by”

We would represent that in the case of this Application, almost all of these apply – (i) regulated entertainments; (ii) late hours; (iii) residents living adjacent to, above and close by.

Paragraph 20.12 lists a number of measures that the Authority expects to be considered and applied appropriate to the risk of nuisance. These include:

- (i) ...management and control of entrance/exit lobbies so as to ensure the integrity of the premises is maintained and internal sound contained;
- (ii) the provision of acoustic double door lobbies of an adequate residence time;
- (iii) the provision of acoustic seals and self closers on all doors;
- (iv) installation of sound resistant double glazing;
- (v) keeping doors and windows closed where performances of regulated entertainment take place.

So far as we are aware, none of these measures have been considered or applied.

We also believe, taking into account the nature of these Premises, that it may not be either possible or practicable to implement these measures, since patrons and staff must constantly be moving to and from between the interior bar area and the exterior beer garden. Even if the doorway is properly managed, it will inevitably be opened and closed constantly – allowing the sound to escape.

History of non-compliance with Legal requirements

In the License application that Divina have made it states, “We will always be considered to our neighbours and local residents keeping the noise to a minimum and respect the time allowance given to the premises by the local authority”. This assurance has already been demonstrated to be false by the Applicant’s behaviour in 2021.

In Section 16.11 (‘High standards of management’) in the Haringey Statement of Licensing Policy 2021-2026, the following requirement appears; “Is able to demonstrate a track record of compliance with legal requirements”. We would like to draw your attention to the fact that the Applicant has been advertising and servicing alcoholic beverages and hosting live music as an unlicensed operation for months, contract to legal requirements, We have compiled our evidence for this into a single document for your convenience (attached to the email).

Other considerations

Mental Health

People’s mental health has been impacted by the Covid Pandemic, in particular those who have lost loved ones, those who have lost their jobs and even those who have had to adapt to remote working and home-schooling. Noise disturbance can accentuate mental health issues in the domestic setting. Communities who are coming together to provide mutual support during Covid would like to ensure that everything is done to protect the mental health of their local residents,

and this should also be the aim of our local businesses in Highgate to support their local communities in a positive and constructive fashion.

Protecting and respecting local families & children

As previously mentioned, many properties along Holmesdale Road adjacent to the premises of Divina and to the back of Archway Road, are largely occupied by families. The strain on families during lockdown with remote working and home-schooling has been tough. As a community we should try to enable our children to have undisrupted sleep in order to perform and achieve the milestones required by the National Curriculum. Sleep is fundamental for children's development and learning, and for our students. Again, as a local community, it is crucial that we do everything we can to protect children's rights as their education is paramount as we come out of the Covid Pandemic and lockdown period. Where they may have fallen behind, due to less face-to-face teaching, we owe it to them to allow them to have uninterrupted sleep patterns.

From: [REDACTED]

Sent: 15 August 2021 20:10

To: Licensing <Licensing.Licensing@haringey.gov.uk>

Subject: Representation concerning application for new licence for Divina Kitchen Limited, 256 Archway Road from owners and residents of 27 Holmesdale Road

Dear Haringey Licensing Team,

The Applicant, Divina Kitchen Limited, is seeking a new licence to convert business premises at 256 Archway Road, Highgate N6 5AX, which was most recently an Italian restaurant, into a late night bar featuring recorded and live music seven days per week.

We as the owners and occupier of a residential property on the West side of Holmesdale Road, which is closely located to the Premises wish to make representations to the effect that the Application should be rejected in its current form because the nature of the locality means that, per the Haringey Statement of Licensing Policy, these Premises are not at all suitable for use as a late night bar with recorded and live music.

SUMMARY

- The floor plan provided by the Applicant is misleading. The area marked "Seating Area" to the rear of the Premises is in fact an open air back yard which has been covered with a fabric canopy and converted to a beer garden. In fact, the Applicant promotes this area in the front window as a "Garden";
- Whilst the front of Divina's premises face Archway Road which is a "main road well served by public transport"; the rear of the Premises is situated in a quiet residential area;
- Divina's open air beer garden backs directly into the gardens of 31 and 33 Holmesdale Road and sound emanating from Divina impacts on many other adjacent properties including our property on 27 Holmesdale Road;
- During the months since Divina has opened its beer garden, we and other residents of Holmesdale Rd and Archway Rd have endured constant noise nuisance from Divina's beer garden (i.e. "Nuisance Outside of Premises") and also noise nuisance escaping from the main restaurant via the open back door which provides access to the beer garden (i.e. "Nuisance from Within

Premises”);

- There is a single rear door from the interior to the Beer Garden which must be kept constantly open to facilitate customers and employees passing between the Beer Garden to the Restaurant in order to reach the adjacent bar and bathrooms. Noise inevitably escapes;
- This is especially the case at weekends when the noise from Divina is constant through the afternoons and late into the night. It is a mix of raised voices, recorded music and live karaoke;
- Many Holmesdale Road residents, affected by noise nuisance from Divina and have filed complaints with Haringey – to little or no effect;
- We do not believe that the management of Divina has undertaken the recommended “risk assessment” taken any of the provisions of the Haringey Statement of Licensing Policy prior to making their application;
- Even the most basic analysis of the premises and the locality in the context of the provisions of the Haringey Statement of Licensing Policy would have established that open air beer gardens situated in quiet residential areas are not suitable for a late night bar with live and recorded music.
- Nor has the Applicant implemented any of the specific steps recommended in the Haringey Statement of Licensing Policy to ensure that local residents are not affected by noise caused by either Nuisance Outside of Premises or Nuisance from Within Premises.
- In an era of social distancing, we appreciate that some greater flexibility may be needed for restaurants to provide properly managed open air seating during the early part of the evening, but we do not think that this means we should have to endure a night club or a karaoke bar in our back garden.
- Granting such a license would fundamentally change the character of the area.

DETAILED ANALYSIS

The Premises

At ground level, 256 Archway Road is one of a row of shops on the West side of Archway Road descending from the junction with Holmesdale Rd to the Archway Road Bridge.

In recent years, the shop at 256 Archway Road has been converted for use as a restaurant – as is also the case with a number of other shops in the row.

The Applicant has converted the back yard of the restaurant into a beer garden with a canopy above and some wooden boards to the side. The beer garden contains half a dozen tables and seating for about 40 persons. There is also a television set.

This application to change licensed use from that of a restaurant to a late night bar with recorded and live music is wholly new.

As described in the floor plan attached to the Application, the Premises comprise two distinct elements: (i) an indoor front area (which was originally the shop/restaurant); and (ii) an outdoor yard at the back, which the Applicant has converted into a beer garden.

In the Applicant's floor plan attached to Application, The indoor restaurant area (i) is described as "Restaurant Seating Area"; whilst the outdoor yard area or beer garden (ii) is described, somewhat misleadingly as "Seating Area".

The indoor area is separated from the outdoor area by means of a single door which must either be kept open – or opened and closed constantly – to facilitate access to the bar and bathrooms.

The Locality

It is true that the front part of the Premises face onto Archway Road – which is a "busy main road with public transport access. So at first sight, this zone might be considered a suitable location for a bar.

However, the character of the zone to the rear of the premises is quite different. As a result of the topography and camber of the hill, none of the traffic or other noises from Archway Road is audible. This is a very quiet area. The residents of nearby houses in Holmesdale Road and Archway Road have, until recently, been able to enjoy the peaceful use of their gardens and the rooms to the rear of their properties without any disturbance.

However, because the zone to the rear of the premises, in contrast to the front, is such a quiet residential neighbourhood, any form of noise pollution emanating from the Premises via the open air beer garden to the rear of the Premises – whether recorded music or live karaoke or raised voices – stands out a great deal and generates significant noise pollution which prevents the occupants from the quiet enjoyment of their homes and gardens to which they are entitled - and causes a public nuisance.

Nature of the Public Nuisance

In recent months, significant noise pollution has been emanating from the rear of the Premises. At different times, the noise takes the form of recorded music, karaoke, singing and raised voices. The noise pollution continues from mid afternoon until after midnight – especially at weekends. We cannot use our gardens or open the windows. Children in rear facing bedrooms are unable to sleep.

On numerous occasions when this has occurred, local residents have filed many complaints with Haringey Council. [List Numbers and Dates]

However, the owners and management of Divina have proved either unwilling or unable to do anything to prevent the noise emanating from the rear of the building and from the beer garden.

The Boogaloo/ Village Square Karaoke

There are two bars with late night licences and live music in the area. These are The Boogaloo at 312 Archway Road near to Highgate Tube Station; and Village Square Karaoke (formerly Caiparinha) at 177 Archway Road by the junction with Cromwell Avenue.

The Boogaloo offers late night bar with live and recorded music and has an open air beer garden. However, the beer garden to the rear is insulated from the bar area by two self closing fire doors and a passageway. No noise from live music or recorded music being played in the bar is audible in the beer garden.

Village Square Karaoke is well insulated - and does not have any open air space.

312 and 177 Archway Road are situated at a greater distance from the residential areas.

Haringey Statement of Licensing Policy

It is stated in Councilor White's preface that the Prevention of Public Nuisance is one of the four licensing objectives and this is repeated in Section 8.

In Paragraph 8.2, it is stated that "*protecting the public and local residents from... noise nuisance...*" is "*vitaly important and should be a principal aim of everyone involved in licensing work*"

In Paragraph 16.10 Location and Other Relevant Considerations, it is stated that when considering new applications for licenses, a number of matters should be taken into account including the following in particular:

1. The type and mix of premises in the local area;
2. The location of the premises and their character;
3. The proposed hours of operation;
4. The physical suitability of the premises for the proposed licenseable activities i.e. in terms of safety – access – noise control.

It seems to us that the premises are not at all physically suitable for the proposed licenced activities.

First – it seems totally impossible to implement noise control in an open air space. Second, it seems impossible to isolate sounds emanating from an indoor space from adjacent open air space without two separate self-closing doors.

In Paragraph 16.10 High Standards of Management, the Haringey Statement of Licensing Policy indicates that the Applicant should – amongst other things

1. have researched the local area and can demonstrate understanding of local community concerns;
2. has carried out relevant risk assessments and devised an appropriate strategy to promote the licensing objectives.

We are concerned that the Applicant has not undertaken a risk assessment.

Prevention of Public Nuisance under the Haringey Statement of Licensing Policy

Section 20 of the Haringey Statement of Licensing Policy relates to Public Nuisance and to Noise Nuisance in particular.

Paragraph 20.1 notes that nuisance is best managed by careful consideration of the suitability of the selected site at an early stage. It also states categorically that the Authority expects applicants to have made relevant enquiries about the local area before submitting their application.

We represent that, whilst the Archway Road is a "main road well served by public transport" and suitable for "locating licenseable activities", the rear of the premises forms part of a very different zone. If the applicants had undertaken a risk assessment of potential sources of nuisance to the local community as recommended in Paragraph 20.2 – they would have appreciated the potential source of nuisance to the rear and taken this into account prior to deciding whether to make an application for a late night bar.

In this regard, paragraph 20.2 highlights as relevant considerations for such a risk assessment as

"Preventing noise and vibration escaping from the premises, including from music played on the premises, public address systems and customer noise" and

“controlling disturbance that may be caused by the use of external areas. This should include gardens and terraces as well as other open air areas...”

Preventing Nuisance Outside of Premises

This is highly relevant because the Applicant has converted the yard into a beer garden.

Section 20.8 Preventing Nuisance Outside of Premises “Nuisance caused by patrons outside of premises, whether by patrons queueing for entry or enjoying the facility of a beer garden or terrace...is of considerable concern to local residents. This forms the basis for many of the complaints received within the Authority especially through the summer months.

Section 20.9 “Licensees have a responsibility for the conduct of their customers while they are in and around their premises. If provision is made for customers to congregate or smoke outside of premises, then sufficient management controls must be put into place to ensure that no nuisance or disturbance is caused to local residents”

As the Haringey Statement of Licensing Policy foresees, we and our neighbours have had to file many complaints during the summer. We are not aware of any management controls being implemented. If any management controls have been implemented, they have proved wholly ineffective.

Preventing Nuisance From Within Premises

This is also relevant as much of the noise nuisance appears to be caused by noise generated inside the Premises which escapes via the door to the external beer garden into the residential zone.

Paragraph 20.11 states “Nuisance may often be caused by sound escaping from the premises or transmitted through the structure of the building. While some simple management steps may be taken to reduce the problem, it should be understood that in some premises physical works may be necessary to prevent nuisance being caused to local residents.”

And it goes on to say: “The likelihood of this increases where regulated entertainments are to be provided; the later the intended hour of operation; where residents live adjacent to, above or close by the premises; or where there are other noise sensitive premises close by”

We would represent that in the case of this Application, almost all of these apply – (i) regulated entertainments; (ii) late hours; (iii) residents living adjacent to, above and close by.

Paragraph 20.12 lists a number of measures that the Authority expects to be considered and applied appropriate to the risk of nuisance. These include:

1. ...management and control of entrance/exit lobbies so as to ensure the integrity of the premises is maintained and internal sound contained;
2. the provision of acoustic double door lobbies of an adequate residence time;
3. the provision of acoustic seals and self closers on all doors;
4. installation of sound resistant double glazing;
5. keeping doors and windows closed where performances of regulated entertainment take place.

So far as we are aware, none of these measures have been considered or applied.

We also believe, taking into account the nature of these Premises, that it may not be either possible or practicable to implement these measures, since patrons and staff must constantly be moving to and from between the interior bar area and the exterior beer garden. Even if the

doorway is properly managed, it will inevitably be opened and closed constantly – allowing the sound to escape.

[REDACTED]

[REDACTED]

[REDACTED]



LICENSING ACT 2003 - REPRESENTATION FORM

To make a representation in respect of an application for a Premises Licence or Club Premises Certificate please complete the following form. For representations to be considered relevant they must relate to one or more of the four "Licensing Objectives" (listed below).

Please note all representations will be made available for applicants to view. If you make a representation objecting to the application it is likely that you will be called upon to attend a hearing and present your objection before a Licensing Committee.

Personal Details	
Name.....	[REDACTED]
Address.....	[REDACTED]
Postcode.....	[REDACTED]

Licence application you wish to make a representation on	
<i>You do not need to answer all of the questions in this section, but please give as much information as you can:</i>	
Application Number.....	WK/507295
Name of Licensee.....	DRITAN HUSHI (APPLICANT)
Name of Premises (if applicable).....	DIVINA
Premises Address (where the Licence will take effect).....	256 ARCHWAY ROAD LONDON
Postcode.....	N6 5AX

Reason/s for representation
<i>Under the Licensing Act 2003, for a representation to be relevant it must be one that is about the likely effect of the application on the promotion of the four licensing objectives. Any representations that are considered to be vexatious or frivolous will not be considered (please see Haringey Council's leaflet Variations, Representations and Appeals for Premises Licences and Club Premises Certificates).</i>
<i>Fill in reason/s for your representation in the space provided under each Licensing Objective it relates to.</i>

The Prevention of Crime and Disorder
Public Safety
The Prevention of Public Nuisance NOISE POLLUTION FROM THE BEER GARDEN AND ESCAPING FROM THE RESTAURANT VIA REAR DOOR TO GARDEN
The Protection of Children from Harm PER ATTACHED

I, [REDACTED], hereby declare that all information I have submitted is true and correct.

Signed:

[REDACTED]

Date:

16/08/21

Please email the completed form to licensing@haringey.gov.uk.

APPLICATION FOR A PREMISES LICENCE FOR DAVINA KITCHEN LTD. – 256 ARCHWAY ROAD LONDON N6 5AX (WK/507295)

Address: [REDACTED]

The Applicant, Divina Kitchen Limited, is seeking a new licence to convert business premises at 256 Archway Road, Highgate N6 5AX, which was most recently an Italian restaurant, into a late night bar featuring recorded and live music seven days per week.

We as the owners and occupier of a residential property on the West side of Holmesdale Road is directly adjacent to the beer garden at the rear of the Premises wish to make representations on the grounds of PUBLIC NUISANCE to the effect that the Application should be rejected in its current form because the nature of the locality means that, per the Haringey Statement of Licensing Policy, these Premises are not at all suitable for use as a late night bar with recorded and live music.

The yard at the back of the premises which the Applicant has repurposed as a semi-covered beer garden, backs on to my own back garden. As a general comment, my view is that, if the back door of the main restaurant were to be kept locked, and the rear of the premises properly sound-proofed so that there is no escape of noise pollution, I would have no objection to the applications to convert the restaurant into a bar with a late licence for live and recorded music. But at whatever time of day the Beer Garden is open – there is an unacceptable level of noise pollution both from the Beer Garden and escaping from the main restaurant.

SUMMARY

- The floor plan provided by the Applicant is misleading. The area marked "Seating Area" to the rear of the Premises is in fact an open air back yard which has been covered with a fabric canopy and converted to a beer garden. In fact, the Applicant promotes this area in the front window as a "Garden";
- Whilst the front of Divina's premises face Archway Road which is a "main road well served by public transport"; the rear of the Premises is situated in a quiet residential area;
- Divina's open air beer garden backs directly into the gardens of 31 and 33 Holmesdale Road and sound emanating from Divina impacts on many other adjacent properties;
- During the months since Divina has opened its beer garden, we and other residents of Holmesdale Rd and Archway Rd have endured constant noise nuisance from Divina's beer garden (i.e. "Nuisance Outside of Premises"); and also noise nuisance escaping from the main restaurant via the open back door which provides access to the beer garden (i.e. "Nuisance from Within Premises");
- There is a single rear door from the interior to the Beer Garden which must be kept constantly open to facilitate customers and employees passing between the Beer Garden to the Restaurant in order to reach the adjacent bar and bathrooms. Noise inevitably escapes;

- This is especially the case at weekends when the noise from Divina is constant through the afternoons and late into the night. It is a mix of raised voices, recorded music and live karaoke;
- Many Holmesdale Road residents, affected by noise nuisance from Divina and have filed complaints with Haringey – to little or no effect;
- We do not believe that the management of Divina has undertaken the recommended “risk assessment” taken any of the provisions of the Haringey Statement of Licensing Policy prior to making their application;
- Even the most basic analysis of the premises and the locality in the context of the provisions of the Haringey Statement of Licensing Policy would have established that open air beer gardens situated in quiet residential areas are not suitable for a late night bar with live and recorded music.
- Nor has the Applicant implemented any of the specific steps recommended in the Haringey Statement of Licensing Policy to ensure that local residents are not affected by noise caused by either Nuisance Outside of Premises or Nuisance from Within Premises.
- In an era of social distancing, we appreciate that some greater flexibility may be needed for restaurants to provide properly managed open air seating during the early part of the evening, but we do not think that this means we should have to endure a night club or a karaoke bar in our back garden.
- Granting such a licence would fundamentally change the character of the area.

DETAILED ANALYSIS

The Premises

At ground level, 256 Archway Road is one of a row of shops on the West side of Archway Road descending from the junction with Holmesdale Rd to the Archway Road Bridge.

In recent years, the shop at 256 Archway Road has been converted for use as a restaurant – as is also the case with a number of other shops in the row.

The Applicant has converted the back yard of the restaurant into a beer garden with a canopy above and some wooden boards to the side. The beer garden contains half a dozen tables and seating for about 40 persons. There is also a television set.

This application to change licensed use from that of a restaurant to a late night bar with recorded and live music is wholly new.

As described in the floor plan attached to the Application, the Premises comprise two distinct elements: (i) an indoor front area (which was originally the shop/restaurant); and (ii) an outdoor yard at the back, which the Applicant has converted into a beer garden.

In the Applicant's floor plan attached to Application, The indoor restaurant area (i) is described as "Restaurant Seating Area"; whilst the outdoor yard area or beer garden (ii) is described, somewhat misleadingly, as a "Seating Area".

The indoor Restaurant area is separated from the outdoor Beer Garden area by means of a single door which must either be kept open – or opened and closed constantly – to facilitate access to the bar and bathrooms.

The Locality

It is true that the front part of the Premises face onto Archway Road – which is a "busy main road with public transport access". So at first sight, this zone might be considered a suitable location for a bar.

However, the character of the zone to the rear of the premises is quite different. As a result of the topography and camber of the hill, none of the traffic or other noises from Archway Road is audible. This is a very quiet area. The residents of nearby houses in Holmesdale Road and Archway Road have, until recently, been able to enjoy the peaceful use of their gardens and the rooms to the rear of their properties without any disturbance.

However, because the zone to the rear of the premises, in contrast to the front, is such a quiet residential neighbourhood, any form of noise pollution emanating from the Premises via the open air beer garden to the rear of the Premises – whether recorded music or live karaoke or raised voices – stands out a great deal. It generates significant noise pollution which prevents the occupants from the quiet enjoyment of their homes and gardens to which they are entitled - and causes a public nuisance. Such noise if licensed by Haringey and continued over a lengthy time could fundamentally change the character of the neighbourhood and impact on property values. In this case, it could also potentially be actionable separately as a private tort of nuisance.

Nature of the Public Nuisance

In recent months, significant noise pollution has been emanating from the rear of the Premises. At different times, the noise takes the form of recorded music, karaoke, singing and raised voices. The noise pollution continues from mid afternoon until after midnight – especially at week ends. We cannot use our gardens or open the windows. Children in rear facing bedrooms are unable to sleep.

On numerous occasions when this has occurred, local residents have filed many complaints with Haringey Council. [List Numbers and Dates]

However, the owners and management of Divina have proved either unwilling or unable to do anything to prevent the noise emanating from the rear of the building and from the beer garden.

The Boogaloo/ Village Square Karaoke

There are two bars with late night licences and live music in the area. These are The Boogaloo at 312 Archway Road near to Highgate Tube Station; and Village Square Karaoke (formerly Caiparinha) at 177 Archway Road by the junction with Cromwell Avenue.

The Boogaloo offers late night bar with live and recorded music and has an open air beer garden. However, the beer garden to the rear is insulated from the bar area by two self closing fire doors

and a passageway. No noise from live music or recorded music being played in the bar is audible in the beer garden.

Village Square Karaoke is well insulated - and does not have any open air space.

312 and 177 Archway Road are situated at a greater distance from the residential areas.

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It is stated in Councilor White's preface that the Prevention of Public Nuisance is one of the four licensing objectives and this is repeated in Section 8.

In Paragraph 8.2, it is stated that "*protecting the public and local residents from... noise nuisance...*" is "*vitaly important and should be a principal aim of everyone involved in licensing work*"

In Paragraph 16.10 Location and Other Relevant Considerations, it is stated that when considering new applications for licenses, a number of matters should be taken into account including the following in particular:

- (i) The type and mix of premises in the local area;
- (ii) The location of the premises and their character;
- (iii) The proposed hours of operation;
- (iv) The physical suitability of the premises for the proposed licenseable activities i.e. in terms of safety – access – noise control.

It seems to us that the premises are not at all physically suitable for the proposed licenced activities.

First – it seems totally impossible to implement noise control in an open air space. Second, it seems impossible to isolate sounds emanating from an indoor space from adjacent open air space without two separate self-closing doors.

In Paragraph 16.10 High Standards of Management, the Haringey Statement of Licensing Policy indicates that the Applicant should – amongst other things

- (i) have researched the local area and can demonstrate understanding of local community concerns;
- (ii) has carried out relevant risk assessments and devised an appropriate strategy to promote the licensing objectives.

We are concerned that the Applicant has not undertaken a risk assessment.

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Paragraph 20.1 notes that nuisance is best managed by careful consideration of the suitability of the selected site at an early stage. It also states categorically that the Authority expects applicants to have made relevant enquiries about the local area before submitting their application.

We represent that, whilst the Archway Road is a "main road well served by public transport" and suitable for "locating licenseable activities", the rear of the premises forms part of a very different

zone. if the applicants had undertaken a risk assessment of potential sources of nuisance to the local community as recommended in Paragraph 20.2 – they would have appreciated the potential source of nuisance to the rear and taken this into account prior to deciding whether to make an application for a late night bar.

In this regard, paragraph 20.2 highlights as relevant considerations for such a risk assessment as

“Preventing noise and vibration escaping from the premises, including from music played on the premises, public address systems and customer noise” and

“controlling disturbance that may be caused by the use of external areas. This should include gardens and terraces as well as other open air areas...”

Preventing Nuisance Outside of Premises

This is highly relevant because the Applicant has converted the yard into a beer garden.

Section 20.8 Preventing Nuisance Outside of Premises “Nuisance caused by patrons outside of premises, whether by patrons queuing for entry or enjoying the facility of a beer garden or terrace...is of considerable concern to local residents. This forms the basis for many of the complaints received within the Authority especially through the summer months.

Section 20.9 “Licensees have a responsibility for the conduct of their customers while they are in and around their premises. If provision is made for customers to congregate or smoke outside of premises, then sufficient management controls must be put into place to ensure that no nuisance or disturbance is caused to local residents”

As the Haringey Statement of Licensing Policy foresees, we and our neighbours have had to file many complaints during the summer. We are not aware of any management controls being implemented. If any management controls have been implemented, they have proved wholly ineffective.

Preventing Nuisance From Within Premises

This is also relevant as much of the noise nuisance appears to be caused by noise generated inside the Premises which escapes via the door to the external beer garden into the residential zone.

Paragraph 20.11 states “Nuisance may often be caused by sound escaping from the premises or transmitted through the structure of the building. While some simple management steps may be taken to reduce the problem, it should be understood that in some premises physical works may be necessary to prevent nuisance being caused to local residents.”

And it goes on to say: “The likelihood of this increases where regulated entertainments are to be provided; the later the intended hour of operation; where residents live adjacent to, above or close by the premises; or where there are other noise sensitive premises close by”

We would represent that in the case of this Application, almost all of these apply – (i) regulated entertainments; (ii) late hours; (iii) residents living adjacent to, above and close by.

Paragraph 20.12 lists a number of measures that the Authority expects to be considered and applied appropriate to the risk of nuisance. These include:

- (i) ...management and control of entrance/exit lobbies so as to ensure the integrity of the premises is maintained and internal sound contained;
- (ii) the provision of acoustic double door lobbies of an adequate residence time;
- (iii) the provision of acoustic seals and self closers on all doors;
- (iv) installation of sound resistant double glazing;
- (v) keeping doors and windows closed where performances of regulated entertainment take place.

So far as we are aware, none of these measures have been considered or applied.

We also believe, taking into account the nature of these Premises, that it may not be either possible or practicable to implement these measures, since patrons and staff must constantly be moving to and from between the interior bar area and the exterior beer garden. Even if the doorway is properly managed, it will inevitably be opened and closed constantly – allowing the sound to escape.



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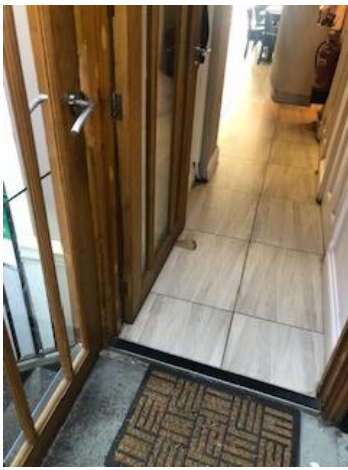
Photographs of Beer Garden to rear of Davina



Canopy ceiling in Beer Garden



The Canopy ceiling and the wooden panelling of the Beer garden





Rear Door of the Main Restaurant into the back yard is, of necessity, constantly open when the Beer Garden is being used



Wooden Fence which is boundary between the Beer Garden and the back gardens of 31 and 33 Holmedale Road

From: Cllr Morris Liz <Liz.Morris@haringey.gov.uk>

Sent: 13 August 2021 16:27

To: Barrett Daliah <Daliah.Barrett@haringey.gov.uk>

Cc: Cllr Morris Liz <Liz.Morris@haringey.gov.uk>

Subject: Divina - Archway Rd N6

I have serious concerns about this licensing application in relation to the licensing objective:

Prevention of public nuisance

As the local councillor I have been contacted by a number of Holmesdale residents, who live at the rear of the premises, complaining of loud and continued disturbance by Divina Kitchen Ltd. They have complained that Divina are holding noisy live music events and parties which can run into the early hours of the morning. This has been happening on several days over the weekend, on consecutive weekends and over a sustained period of time. Residents report that the noise is coming from the rear yard of the premises.

I have also seen similar complaints from other residents on the Holmesdale street WhatsApp group which I am part of. It is clear that a large number of Holmesdale residents have been disturbed over a long period of time and that the noise from Divina which has severely affected the enjoyment of residents' homes and gardens. There will no doubt be also be residents on Archway Rd who will have been affected.

It is very disappointing that the owners of Divina have not stopped their parties and music events, or done anything to reduce the noise, despite being contacted by the council's enforcement team. They have to date caused a great deal of public nuisance. So far this statement in their application is untrue **"WE WILL ALWAYS BE CONSIDERED (sic) TO OUR NEIGHBOURS AND LOCAL RESIDENTS KEEPING THE NOISE TO A MINIMUM AND RESPECT THE TIME ALLOWANCE GIVEN TO THE PREMISES BY THE LOCAL AUTHORITY."**

Given the noise problems that have been experienced I would urge the council to place a restriction that the garden cannot be used at any time for any purpose. I am also concerned about the applicant playing loud music inside the premises with windows and doors open which will cause great disturbance to neighbours. Please could any music license be conditioned that doors and windows need to be shut and that some form of noise insulation is installed.

Liz Morris

**Councillor Highgate Ward
Haringey Liberal Democrat Group
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