

**Report for:** Special Licensing Sub Committee – 2 July 2021

**Title:** Application for a new premises licence at 365-369 Green Lanes, London, N4.

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

**Ward(s) affected** Harringay

**Report for Key/ Non Key Decision:** Not applicable

1. **Describe the issue under consideration**

- 1.1 An application has been submitted by Mr Garip Toprak for a new premises licence to allow for the sales of alcohol. Representations against the premises licence application have been received from residents and from Responsible Authorities. The matter is put to the Licensing Sub-Committee for determination at a public hearing.

- 1.2 The application seeks the following:

**Late Night Refreshment**

Friday to Saturday 2300 to 0200 hours

**Supply of Alcohol**

Sunday to Thursday 1100 to 2300 hours

Friday to Saturday 1100 to 0200 hours

Supply of alcohol **ON** the premises only.

**Hours open to Public**

Sunday to Thursday 0600 to 2330 hours

Friday to Saturday 0600 to 0230 hours

- 1.3 The premises is situated along a row of terraced shops with residential accommodation above and to the rear. The application provides the following description of the type of business that will be operated 'The premises is a Bistro Restaurant Lounge located on ground floor and mezzanine floor. Alcohol sales will take place **ON** the premises'. The premises spans across three shop units and has a rear external area that will consist of two levels.
- 1.4 The application submitted by Mr Toprak does not offer any alternative timing for the use of the garden floors.
- 1.5 Representations have been received against this application by 'other persons' and Councilors, these are set out in Appendix 2. Representations have also been received from Responsible Authorities, these are set out in Appendix 3.
- 1.5 As such, in accordance with the legislation the Licensing Authority must hold a hearing to consider the application and any relevant representations. The Sub-Committee is asked to consider the content of this report and appendices, together with any oral submissions given at the hearing, and determines the application.

## **2 Background**

- 2.1 The Licensing Sub-Committee has previously dealt with a review against a business operating as Rakkas which had its premises licence revoked for failing to uphold and promote the licensing objectives. The licence holder at the time was a Mr Ali Ozbek. We have confirmation from Rates Team that Mr Ali Ozbek remains the named ratepayer at the address 365-369 Green Lanes N4. He has been occupying 369 since 15/10/13 and 365-367 since 30/9/14. Mr Kenan the licensing agent advised that the previous licence holder has no involvement in this current application.
- 2.2 The applicant has offered that there will be no music played in the outdoors area. Also that all alcohol sales will only be via waiter/waitress service to the customers table. There are also conditions offered that are already set in law and therefore imposed should the premises licence be granted, these are:
- No service of alcohol to underage people.
  - Will not serve alcohol who already drunk in the premises.
  - Emergency light will be installed and fire extinguisher will be installed. The fire exit is free of any impediment or obstacle at all time of the operating hours. – This is a requirement already under Fire Safety regulations.

## **3 Relevant representations**

- 3.1 The representations from 'Other Parties' at (Appendix 2) are from Cllr Brabazon as a ward councillor and residents. there are a number of concerns raised relating to any potential links with the previous operation of the venue known as Rakkas which had its premises licence revoked for failing to uphold the licensing objectives and operating at a time when Covid measures were in place that required premises to close or prohibited certain types of activity such as shisha smoking. The lack of clarity in relation to the rear area is also cited and the understanding of its use and potential structure as set out in the Planning context is also raised. The potential for noise and the hours of operation from this area is a theme across all the representations submitted.
- 3.2 Representations from the Responsible authorities, at Appendix 3, cite concerns relating to the lack of information provided in the application. The use of the rear area and the potential for public nuisance arising from the use as an outdoor social space is a concern.
- 4 All the responsible authorities have been consulted about this application. They are as follows:
- The Licensing Authority – Representation at Appendix 3.
  - The Metropolitan Police – Representation at Appendix 3 – now withdrawn.
  - The London Fire and Emergency Planning Authority
  - Planning – Representation at Appendix 3 – clarity on the need for further planning application.
  - Health and Safety (includes Building Control)
  - Noise Environmental Health
  - Environmental Health – Representation at Appendix 3 – request for further information.
  - Trading Standards
  - Child protection
  - Public Health.

## **5 Licensing Officer comments**

- 6.1 The following information is intended to advise Members of the relevant aspects of the

Statement of Licensing Police, 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 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 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. Failure to control customers outside of premises can result in licence reviews being submitted endangering the continuation of the premises licence.  
20.10 Some simple management controls can be put into place which can significantly reduce the risk of nuisance caused to local residents by customers outside of licensed premises. Consideration should be given to placing controls on:
  - The time and number of people allowed to use shisha or similar items in any area.
- 6.8 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 functions 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 residents

Appendix 3 – Representations from Responsible Authorities

Background papers: Section 82 Guidance

