

Decision Notice

Application for a New Premises Licence under the Licensing Act 2003 – 95A West Green Road, London N15 – 6 July 2023

The Licensing Sub Committee (“LSC”) carefully considered the application for a new premises licence for **95A West Green Road, London N15** (“the premises”). In considering the application, the Committee took account of the London Borough of Haringey’s Statement of Licensing Policy, the Licensing Act 2003, the Licensing Act 2003 section 182 Guidance, the report pack and written and oral representations made by the Council’s Noise Team, the applicant (via his agent and directly) and objectors.

Having considered the application and heard from all the parties, the LSC resolved not to grant the Premises Licence.

Reasons:

The LSC were satisfied that the:

- (i) Public Safety (“PS”); and
- (ii) Prevention of Public Nuisance (“PN”)

licensing objectives would be undermined by grant of the licence.

The premises are located at the corner of West Green Road and Anchor Drive, and had previously been used as a tyre shop. The vehicle service bay was at the rear of the premises, fronting onto Anchor Drive and closed off by a roller shutter.

There is a PSPO covering the area which prohibits public drinking of alcohol.

The LSC considered the application for a new licence at the premises, covering Sale of Alcohol on the premises, and provision of Late Night Refreshment and Regulated Entertainment (by way of recorded music), as varied by the Applicant’s acceptance of the amended timings, and conditions, proposed by the Metropolitan Police as set out in their letter dated 8 June 2023.

The Applicant confirmed that he no longer proposed to create an outdoors seating area (marked green on the plan accompanying the application – occupying the former vehicle service bay). He also confirmed that no shisha activity was contemplated.

The Applicant has not had a fire risk assessment carried out for the premises, and did not appear to have a safe capacity assessment – he was vague about the safe capacity; nor has the Applicant provided clarity as to the fire escape arrangements. The LSC had specific concerns as to the arrangement of the premises with the kitchen

backing onto the wooden¹ staircase giving access to the residential parts which has obvious safety implications, as to which the applicant was unable to satisfy the LSC.

The application contained no information as to the arrangements for ventilation of the premises. This concerned the LSC on grounds of public safety if insufficient ventilation was provided. Further, given the residential accommodation above, there was a risk of public nuisance by noise and odours emanating from any ventilation equipment installed. The Applicant was unable to provide any details at the hearing to allow the LSC to satisfy itself on these points.

The application further gave no detail as to the construction of the premises in relation to how transmission of noise to the outside and the residential flats above would be minimised to prevent public nuisance. There was particular concern expressed in objections and at the hearing in relation to the former vehicle service bay. The applicant confirmed at the hearing that a wall had been formed in plasterboard across the entrance, with holes formed at the top of the wall for ventilation (as shown in images supplied by an objector), but which he accepted would lead to transmission of noise. The roller shutter remains in place, and if dropped would reduce transmission of noise but, as he accepted at the hearing, would at the same time close off ventilation, with implications for the safety of patrons. It was also not clear how exit would be enabled in case of fire were the shutter dropped.

The Applicant confirmed that he would limit use of the external smoking area to two persons at a time, but beyond stating that the smoking area would be on West Green Road and that it would be monitored by CCTV, was vague about its location². In response to images produced by one of the objectors showing apparent breaches by drinking alcohol of the PSPO in effect on West Green Road, he claimed that use as a restaurant would assist the licensing objectives in deterring that usage but was unable to develop that claim.

The LSC heard evidence of two incidents at the premises, both acknowledged by the applicant as having taken place, and as to which the LSC accepted the residents' accounts. Firstly, at about 11pm on 17 May 2023, a carbon monoxide alarm in the flat above the premises was triggered. One of the residents contacted "the emergency gas services" who attended the premises and advised that carbon monoxide levels were 4 times above the threshold for emergency evacuation. On investigation the operative established that the cause was that one of the builders working on the premises had lit coals for a shisha, and there was no separation between the restaurant and the flats above to prevent transmission of fumes to the upper floors.

The second incident was acknowledged by the applicant as having taken place when raised in explanation of resident concerns about noise levels from the former vehicle service bay. The applicant and his builders had a party with music that continued, on the residents' account until 6am.

That noise kept the residents awake throughout.

¹ According to the residents evidence which the LSC accepted

² The location was not shown on the plan accompanying the application

The LSC felt that these two incidents, while they occurred before the proposed licensed usage had commenced both showed that the applicant had not given proper consideration either to the safety of the residential occupants (the 17 May incident, which it consider the more serious) or to the nuisance caused to them, and were an indication that he would not give that consideration in the operation of the premises if a licence were granted.

More generally, the LSC felt that the applicant had not given proper consideration to the issues raised by the application before it was made. The Council's Noise and Nuisance team had raised a number of issues in its representations dated 15 June 2023, to which the applicant had made no adequate response; for example, in the course of the hearing he indicated that he would "consider" providing a lobby area to prevent noise breakout through the doors of the premises – a clear recommendation from those representations.

The LSC agrees with and adopts the Noise and Nuisance team's observation that "the operating schedule is replicated from guidance and non-specific. It does not propose conditions specific to the application"; and would go further and say that the application as a whole, as presented, appeared not to have been thought through in terms of the application of general principles to how the specific conditions at the premises could be brought into compliance with the licensing objectives. It was the LSC's view that the deficiencies in the application were such that they went beyond being capable of remedy by appropriate conditions.

For these reasons the LSC decided that the application if granted would undermine the licensing objectives (both PS and PN), and therefore refused the application.

Informative

The LSC recommends that if the applicant wishes to pursue his proposal for a Premises Licence, he consider this decision and address the deficiencies identified before resubmitting his application.

This decision is open to appeal to the Magistrates Court within the period of 21 days beginning on the day upon which the appellant is notified of the decision. This decision does not take effect until the end of the appeal period or, in the event that an appeal has been lodged, until the appeal is dispensed with.

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