

Committee :	Date	Classification
Licensing Sub-committee	24th May 2017	Unclassified

Report of: David Tolley Head of Environmental Health and Trading Standards Originating Officer: Corinne Holland Licensing Officer	Title: Licensing Act 2003 Application for a new premises licence for Shawarma, 84 Brick Lane, London E1 6RL Ward affected: Spitalfields and Banglatown
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1.0 **Summary**

Applicant: **Mr Azzam Barhamji**

Name and **Shawarma**

Address of Premises: **84 Brick Lane
London
E1 6RL**

Licence sought: **Licensing Act 2003 – New Premises Licence
(Late Night Refreshment)**

Representations: **Met Police
Environmental Protection
Licensing Authority
Residents
Resident on behalf of Spitalfields Community Group**

2.0 **Recommendations**

2.1 That the Licensing Committee considers the application and objections then adjudicate accordingly.

LOCAL GOVERNMENT 2000 (Section 97)
LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

File Only

Corinne Holland
020 7364 3986

3.0 **Background**

3.1 This is an application for a new premises licence for (Shawarma), 84 Brick Lane, London E1 6RL.

3.2 A copy of the application is enclosed as **Appendix 1**.

3.3 The applicant has applied for the provision of late night refreshments:

Provision of Late Night Refreshments

- Monday to Sunday 23:00 – 02:00 hours
- Non Standard Timings – from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day
- Non Standard Timings - Sundays before Bank Holiday Mondays until 02:00

Hours premises are open to the public:

- Monday to Sunday 10:00 – 02:00 hours

4.0 **Location and Nature of the premises**

4.1 Photographs of the venue and immediate vicinity will be provided at the hearing.

4.2 The site plan of the venue is included as **Appendix 2**.

4.3 Maps showing the vicinity are included as **Appendix 3**.

4.4 Details of the nearest licensed venues are included as **Appendix 4**.

5.0 **Licensing Policy and Government Advice**

5.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing. The revised policy came into effect on the 1st November 2013.

5.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.

5.3 The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, www.homeoffice.gov.uk. It was last revised in April 2017.

5.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

Representations

- 5.5 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following responsible authorities and local residents:
- Met Police (**Appendix 5**)
 - LBTH Environmental Protection (**Appendix 6**)
 - Licensing Authority (**Appendix 7**)
 - David Cunningham (**Appendix 8**)
 - Glenn Leeder (**Appendix 9**)
 - Jon Shapiro (**Appendix 10**)
 - Michael Myers (**Appendix 11**)
 - Matthew Piper (on behalf of Spitalfields Community Group) (**Appendix 12**)
- 5.6 All of the responsible authorities have been consulted about this application. They are as follows:
- The Licensing Authority
 - The Metropolitan Police
 - The LFEPA (the London Fire and Emergency Planning Authority).
 - Planning
 - Health and Safety
 - Noise
 - Trading Standards
 - Child Protection
 - Public Health
- 5.7 In addition the application was required to be advertised in a local newspaper and by a blue poster. Only objections that relate to the following licensing objectives are relevant:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm
- 5.8 Essentially, the relevant parties oppose the application because the applicant has not explained how within the context of the application they will meet the licensing objectives, particularly the prevention of crime and disorder and the prevention of public nuisance.
- 5.9 There are strict time limits to any representations. The time limits are contained in The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.
- 5.10 The applicant has offered measures in the operating schedule of the application that address the promotion of the Licensing Objectives. If there were no representations, the Licensing Authority would grant the licence, with conditions consistent with the operating schedule, which are relevant, proportionate and enforceable. Members are asked to consider the schedule and incorporate any conditions as necessary to address the licensing objectives.

6.0 Conditions consistent with Operating Schedule (as offered by the Applicant)

- 6.1 Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
- 6.2 The premises shall install and maintain a comprehensive CCTV system. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. 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 period 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.
- 6.3 A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
- 6.4 Reasonable steps shall be taken to ensure that any person loitering outside the premises disperse quickly and do not congregate
- 6.5 The toilet shall be available to all seated customers.
- 6.6 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 6.7 All windows and external doors shall be kept closed except for the immediate access and egress of persons.
- 6.8 An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
- (a) all crimes reported to the venue
 - (b) any complaints received concerning crime and disorder
 - (c) any incidents of disorder
 - (d) any faults in the CCTV system
 - (e) any visit by a relevant authority or emergency service.

7.0 Conditions in consultation with the responsible authorities/other persons

- 7.1 None

8.0 Licensing Officer Comments

8.1 The following is intended simply to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State, legislation and good practice (See 6.2). Members may depart from the Council's Licensing Policy and/or Government advice, provide they consider it appropriate to do so, and have clear reasons for their decision.

8.2 Guidance issued under section 182 of the Licensing Act 2003

- ❖ As stated in the guidance it is “provided to licensing authorities in relation to the carrying out of their functions.” It is a key mechanism for promoting best practice, ensuring consistent application and promoting fairness (1.7)
- ❖ Also “so long as licensing authorities have properly understood the Guidance, they may depart from it if they have reason to do so as long as they have reason to do so.” When doing so licensing authorities will need to give full reasons for their actions (1.9).
- ❖ Also Members should note “A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives.” (1.12)
- ❖ Conditions may not be imposed for the purpose other than the licensing objectives.
- ❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.6).
- ❖ The Licensing Authority may only impose such conditions as are necessary for meeting the licensing objectives.
- ❖ It is Government policy that facilities for people and performers with disabilities should be provided at places of entertainment.
- ❖ “The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities.” (10.11)
- ❖ Mandatory conditions must be imposed (10.38) and censorship avoided (10.17).

- ❖ Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area. This may be unlawful under current law. However, it is important to note that the mandatory conditions made under sections 19A and 73B of the 2003 Act prohibit a number of types of drinks promotions where they give rise to a significant risk to any one of the four licensing objectives (10.26).

- 8.3 The Licensing Act 2003 permits children of any age to be on the premises which primarily sells alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.
- 8.4 In all cases the Members should make their decision on the civil burden of proof that is “the balance of probability.”
- 8.5 In all cases Members should consider 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.
- 8.6 The Government has advised that “Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.” (2.20)
- 8.7 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 8.8 In **Appendices 12 – 21**, Members are given general advice, and also have explanations of the Council’s Licensing Policy, Government advice and other legislation relating to the matters in the representations.

9.0 **Legal Comments**

- 9.1 The Council’s legal officer will give advice at the hearing.

10.0 **Finance Comments**

- 10.1 There are no financial implications in this report.

11.0 Appendices

Appendix 1	A copy of the application
Appendix 2	Site plan of the venue
Appendix 3	Maps showing vicinity of venue
Appendix 4	Details of nearest licensed venues
Appendix 5	Representations from Police
Appendix 6	Representations from Environmental Protection
Appendix 7	Representation from Licensing Authority
Appendix 8	Representation from David Cunningham
Appendix 9	Representation from Glenn Leeder
Appendix 10	Representation from Jon Shapiro
Appendix 11	Representation from Michael Myers
Appendix 12	Representation from Matthew Piper (on behalf of Spitalfields Community Group)
Appendix 13	S182 Advice on crime and disorder
Appendix 14	Licensing Policy advice on crime and disorder
Appendix 14	S182 Advice on public nuisance
Appendix 15	Licensing Policy advice on public nuisance
Appendix 16	Licensing Officer comments on access and egress
Appendix 17	Licensing Officers comments on anti-social behaviour on the premises
Appendix 18	Licensing Officers comments on anti-social behaviour leaving the premises
Appendix 19	Licensing Officers comments on noise when the premises is in use.
Appendix 20	Licensing Policy on the CIZ
Appendix 21	Licensing Policy comments on the hours of trading