

Committee : Licensing Sub Committee	Date	Classification Unclassified	Report No.	Agenda Item No.
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Report of Colin Perrins Head of Trading Standards and Commercial	Title Licensing Act 2003 Application for a New Premises Licence for Papadoms Restaurant, 94 Brick lane E1 6RL
Originating Officer: John Cruse Team Leader Licensing	Ward affected Spitalfields and Banglatown

1.0 Summary

Applicant:
Name and Address of Premises: **Saidur Rahman**
Papadoms
94 Brick Lane
London
E1 6RL

Licence sought: **Licensing Act 2003**
The sale of alcohol,
Regulated entertainment and
Late Night Refreshment

Objectors: **Metropolitan Police**

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

John Cruse
020 7364 5024

3.0 Background

This is an application for a new premises licence for Papadoms 94 Brick Lane London E1 6RL

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

3.2 The applicant has amended the application, the amendments are as agreed with Environmental Health and are contained in **Appendix 2**. This covers more than just hours of opening.

3.3 The hours that are being sought are as follows:

Sale of Alcohol:

Supply of alcohol

Monday to Saturday 12 midday to 23.30 hrs

Sunday 12 midday to 23.00hrs

Late Night Refreshment

Opening Hours

Monday to Saturday 12 midday to midnight

Sunday 12 midday to 23.30 hrs

(permission, of course is only required after 23.00 hrs)

Regulated Entertainment

This is recorded music only

Monday to Saturday 12 midday to midnight

Sunday 12 midday to 23.30 hrs

Hours premises are open to the public

Opening Hours

Monday to Saturday 12 midday to midnight

Sunday 12 midday to 23.30 hrs

Members may care to note that the Late Night Refreshment and Regulated Entertainment hours stated here are slightly different from the application but have been brought into line with the hours the premises are open to the public.

3.4 The representation from Environmental Health also raised issues relating to:

CCTV installation

Door supervisor

Complimentary black coffee

No queuing

Deliveries to be scheduled in the afternoons

No access to the rear of the restaurant

Complimentary confectionary

Dedicated taxi service offered to customers

Background music only

Doors to be kept shut

3.5 Maps showing the relevant premises are included as **Appendix 3**.

4.0 Licensing Policy and Government Advice

4.1 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 7th January 2008.

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

4.3 The Government Minister, the Secretary of State for Culture, Media and Sport has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, www.culture.gov.uk. It was substantially revised on the 28 June 2007.

4.4 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.

5.0 Representations

5.1 All representations have to meet basic legal and administrative requirements. If they fail to do so they cannot be accepted. When rejected the person sending in the representation must be written to, and an explanation for rejection given in writing.

5.2 Only a responsible authority or an interested party can make a representation. Both of these terms are defined by statute, in Section 13 of the Licensing Act 2003.

5.3 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.

5.4 Representations by responsible authorities do not have to meet the second test of not being vexatious and frivolous. Interested parties and their representatives have to meet this test.

5.5 The Secretary of State recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.

- 5.6 All the representations in this report have been considered by the relevant officer (Team Leader Licensing) and determined to have met the requirements of the Licensing Act 2003.
- 5.7 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following:
The Metropolitan Police - See **Appendix 4**.
- 5.8 All of the responsible authorities have been consulted about this application. They are as follows:
- The Metropolitan Police
 - The LFEPA (the London Fire and Emergency Planning Authority).
 - Planning
 - Health and Safety
 - Noise (Environmental Health)
 - Trading Standards
 - Child Protection
- 5.9 In addition the application was required to be advertised in a local newspaper and by a blue poster. In addition, the Licensing Authority notifies local residents and businesses within 40m. 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
- 5.10 The Police Objection is in relation to the prevention of crime and disorder, public safety and the prevention of public nuisance.
- 5.11 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.

6.0 Licensing Officer Comments

- 6.1 The Licensing Section is not a responsible authority and therefore has no ability to make any relevant representations. The following therefore 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. 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.
- 6.2 As stated in the guidance it is "provided for licensing authorities carrying out their functions." It is a key mechanism for promoting

best practice, ensuring consistent application and promoting fairness (1.6). Also "so long as the guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so." When doing so licensing authorities will need to give full reasons for their actions (1.7).

❖ 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." (1.10)

❖ 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 (10.7).

❖ 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. (S. 10.24).

❖ The Government has stated "there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested." (10.20)

❖ Mandatory conditions must be imposed (7.67) and censorship avoided (7.69).

❖ Routine conditions about drink promotions are not permitted but can be imposed in an appropriate circumstances (7.79). The Office of Fair Trading's Advice also needs to be considered, namely that minimum prices setting is not permitted.

6.3 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.

6.4 In all cases the Members should make their decision on the civil burden of proof, that is "the balance of probability."

6.5 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.

- 6.6 The Government has advised that "In the context of preventing public nuisance it is again essential that conditions are focused on measures within the direct control of the licence holder. Conditions relating to public nuisance caused by anti-social behaviour of customers once they are beyond the control of the licence holder or premises management cannot be justified and will not serve the licensing objectives." (2.38)
- 6.7 The Council's Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 6.8 In **Appendices 5-11** Members are given general advice, and also have explanations of the Council's Licensing Policy, Government advice and other legislation relating to the matters previously identified. The appendices are as follows:
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| Appendix 5 | Licensing Officer advice on Crime and Disorder on the Premises |
| Appendix 6 | Licensing Officer advice on Crime and Disorder from patrons Leaving a Premises |
| Appendix 7 | Licensing Officer advice on Noise from a Premises |
| Appendix 8 | Licensing Officer advice on access and egress problems |
| Appendix 9 | Licensing Officer advice on safety problems |
| Appendix 10 | Licensing Officer advice on planning |
| Appendix 11 | Licensing Policy on Hours |

7.0 Legal Comments

- 7.1 The Council's legal officer will give advice at the hearing.

8.0 Finance Comments

- 8.1 There are no financial implications in this report.

9.0 Appendices

Appendix 1	A copy of the licence application.
Appendix 2	Variation as agreed with Environmental health
Appendix 3	Maps of the local area
Appendix 4	Metropolitan Police's Representation
Appendix 5	Licensing Officer advice on Crime and Disorder on the Premises
Appendix 6	Licensing Officer advice on Crime and Disorder from patrons Leaving a Premises
Appendix 7	Licensing Officer advice on Noise from a Premises
Appendix 8	Licensing Officer advice on access and egress problems
Appendix 9	Licensing Officer advice on safety problems
Appendix 10	Licensing Officer advice on planning
Appendix 11	Licensing Policy on hours