

# Public Document Pack

## LONDON BOROUGH OF LEWISHAM

MINUTES of the meeting of the LICENSING COMMITTEE, which was open to the press and public held on 19 SEPTEMBER 2024 at 7pm and held remotely via Microsoft Teams.

### **Present**

Councillor Anifowose (Chair) Councillors, Brown, Harding, and Walker.

Apologies for absence were received from Councillor Atkinson, Burgess, Howard Jackson, Kestner and Onikosi.

### **Also Present**

Rachel Lyne - Legal advisor  
Clare Chown- Safer Communities Officer - Licensing  
Clare Weaser – Committee Officer

### **Savalan Kebab, 289 Sydenham Road, SE26 5EW**

#### **Applicant**

Luke Elford

#### **Objector**

Councillor Best

#### **1. Minutes**

RESOLVED that the minutes of the Licensing Committee held on 29 August 2024 be confirmed and signed.

#### **2. Declarations of Interests**

None.

#### **3. Savalan Kebab, 289 Sydenham Road, SE26 5EW**

- 3.1 The Chair welcomed all parties to the Licensing Committee. She introduced those present and outlined the procedure to be followed for the meeting. She then invited the Safer Communities Services Officer for Licensing to introduce the application.

#### **Introduction**

- 3.2 The Safer Communities Officer said this hearing was to determine the granting of a premises licence application made by Admitat Ltd in relation to the premises at

Savalan Kebab, 289 Sydenham Road. SE26 5EW. The application was received on 25 July 2024 and processed on 25 July 2024. The application had been advertised in accordance with regulations.

- 3.3 During the representation period, the Licensing Authority received two representations. One from a member of the public the other from a local councillor. A representation submitted by the Licensing Authority was withdrawn when the applicant agreed conditions. Representations were not received from any other responsible authority.
- 3.4 The Safer Communities Officer then outlined the options open to members when making their decision.

### **Applicant**

- 3.5 Mr Elford addressed the committee on behalf of the applicant who was unable to attend the meeting because he had to work at the premises. He said that he had submitted a written submission. Members confirmed that they had received and read this submission.
- 3.6 Mr Elford said that this was a small business. The application was for a premises licence for a Turkish takeaway. There was a range of hot and cold starters as well as a full range of main meals. Alcohol would not be served and did not form part of the application.
- 3.7 The premises had been operating until 11pm without any problems. Although it was a takeaway, there was some seating in the premises for customers waiting for food; not for consumption.
- 3.8 The applicant needed a licence in order to trade for the extended hours and this was accompanied by several conditions. These conditions had been agreed by the licensing authority.
- 3.9 Two objections had been received to this application and both objected to alcohol being served. Mr Elford advised members to be cautious because he did not believe that the objectors knew what they were objecting to. Both objections seemed to be geared towards larger problems in the local area rather than specific criticisms of the premises itself. This committee was not a mechanism for dealing with petty crime and anti-social behaviour.
- 3.10 Mr Elford said that no evidence had been submitted to suggest that this premises had been operating badly. Therefore, there was no evidence to suggest that there would be any problems after 11pm. He did not accept the suggestion in one of the objections that shutting a premises at night made a problem go away. If anything, the reverse was true. He referred to the broken windows theory and said that closed premises were more vulnerable than if they were open. It was considered important that this premises stayed open as a presence on the streets.
- 3.11 Objections to the licence had been considered and additional conditions had been proposed to deal with the matters that were within the control of the applicant. If, in the unlikely event that the premises became a magnet for anti-social behaviour and crime, then the review mechanism could be used. The applicant wanted to trade within the law.

- 3.12 Mr Elford said that this was a good application, there was no evidence against it, no responsible authorities had submitted an objection and it should be granted with all the conditions proposed.
- 3.13 Councillor Harding asked how any noise issues and loitering outside the premises would be managed. Mr Elford said that the applicant did not want to encourage the wrong type of people to the premises. He was referring to people who were drinking alcohol and taking drugs. These substances were not for sale at the premises. There would be an external management plan, notices would be displayed asking customers to be quiet; those waiting for food would be asked to stay inside the premises and people would be asked to move along. However, the applicant's power outside the premises was very limited. If people did not move along, this would be recorded and the relevant authorities advised.
- 3.14 Councillor Walker asked Mr Elford to fully address the issue of public nuisance outside the premises, particularly the fact that all other businesses in the area have a licence until 11pm and why these hours had been applied for. Mr Elford said that these were the hours that the applicant wanted to apply for. The licences that other local businesses had were irrelevant to this application. The issue of public nuisance was addressed in the application and within the conditions. The experts in public nuisance within the licensing authority did not have any problem with this application; if granted, this application would not undermine the licensing objectives. There was a management plan and the applicant had addressed the objections and focused on the four licensing objectives.

### **Representations**

- 3.15 Councillor Best said that she was speaking on behalf of a number of residents.
- 3.16 Councillor Best referred to the stretch of take-aways and cafes in Sydenham Road, most did not have late night refreshment licences. Over many years, residents had been part of the community; businesses closing at 11pm helped to maintain peace and quiet. She did not want the premises to be a magnet to people wanting to loiter in the park that did not close in the evening. She had witnessed noise and anti-social behaviour from people in the area who were homeless.
- 3.17 Councillor Best said that after 11pm when the area became quiet, she was concerned about the noise that could reverberate from the premises during these late hours particularly from delivery bikes. On Saturday she witnessed a delivery bike on the pavement outside the premises.
- 3.18 At this point, Mr Elford raised the point that Councillor Best should not be presenting new evidence to the Committee. Ms Lyne concurred and said that Councillor Best could not raise new issues during her presentation because it did not give the applicant time to consider those representations in advance of the meeting and respond to them.
- 3.19 Councillor Best said that residents had raised concerns about the noise that would be created by delivery bikes late into the night. A licence until 2am was too late because it was next to a residential area.

- 3.20 Lower Sydenham Station was in Kangley Bridge Road and the lighting was poor on that stretch of road and was more of an industrial area. Footfall was low and residents had advised her that it could be intimidating with the anti-social behaviour in this area.
- 3.21 Councillor Best said that residents had complained about litter despite numerous litter bins provided in Sydenham Road. Traders left their pink refuse sacks out at night which were ripped open by foxes. Parents from St Philip Neri had complained about the state of the area in the morning.
- 3.22 Councillor Walker referred to noise nuisance and asked what was the latest time that any of the businesses in the area remained open and what representation Councillor Best had received from residents regarding nuisance in the area. Councillor Best said that she had spoken to traders in the vicinity of 289 Sydenham Road, one trader said that during the day she saw rough sleepers sitting on the wall and drinking alcohol. This did not create a good atmosphere for those walking along this part of the road and residents had described these people as leary. At night residents did not feel safe. Urination in the area had become more of a problem since the public toilet had to be closed.
- 3.23 The legal adviser reminded members that this application was not for the sale of alcohol, and this should be borne in mind when considering the representation made by Councillor Best. A number of the points she made were outside the scope of this Committee. When making a determination with regard to this application, members needed to be satisfied that this applicant operating these premises would be unable to uphold one or more of the four licensing objectives in relation to the operation of their premises.
- 3.24 The Chair asked Mr Elford if he wanted to make a point of clarification. He said that he wanted to raise the matter of hearsay and people that Councillor Best was 'representing'. It was not known who these people were or how many there were. Only one resident had made a representation.
- 3.25 The legal adviser said that it was appropriate for Councillor Best to make a presentation on her knowledge of the area and from her conversations with local residents. However, objections were required to be made formally in writing to give applicants the opportunity to consider those representations and for the licensing authority to ensure the objections were entitled to be made. In addition, it was not known how many people Councillor Best was representing. However, the legal adviser was content that the broad issues that Councillor Best raised in generic terms were entirely appropriate for the Committee to take into account.
- 3.26 Councillor Harding asked Councillor Best, with her local knowledge, whether she saw a link between fast food restaurants opening later and anti-social behaviour in and around the home park area. Councillor Best said that she had lived in the area for a number of years and was aware of local issues. She had several emails from local residents that she would be willing to share with the committee. She clarified that she had stated that there was a local convenience store selling alcohol as well as Sainsbury's until 11pm. A premises open until 2am would become a magnet; attracting people who wanted food and they would congregate outside. Generally,

Sydenham did not have a night time economy. Residents who live above takeaways have a good rapport with traders because they have lived there for a number of years. Late night trading would bring more noise and anti-social behaviour and residents did not have confidence that this could be managed.

- 3.27 Mr Elford said that on page 32 of the agenda, in Councillor Best's written representation, she stated 'providing another late night source of alcohol could increase the problems associated with drunken disturbances and aggressive behaviour'. This should be corrected. Councillor Best withdrew this statement.
- 3.28 Councillor Harding asked Councillor Best whether she saw a link between the provision of fast food and anti-social behaviour, or whether she had more concerns about the future of the premises. The legal adviser did not believe that it was in anyone's gift to know what could happen in the future and not something that members could take into consideration. Councillor Best referred to a stabbing outside a takeaway and that many of these crimes were gang related.
- 3.29 Councillor Brown asked whether there was a copy of the External Management Plan. The legal adviser said that as part of the conditions, the applicant had made a commitment to produce this plan which would address the concerns raised by officers and objectors. Licensing officers would review the plan and inspect the premises. She outlined the issues that would be included in the plan.
- 3.30 Councillor Walker was concerned that there were no specifics of the External Management Plan for members consideration. The legal adviser said that this would be address during Mr Elford's concluding presentation. She said that it was not uncommon for the plan to be drafted after the application, in line and in conjunction with licensing officers.

### **Conclusion**

- 3.31 Mr Elford said that the purpose of the plan was to address the concerns raised in the objections. He outlined all the issues and said that they would be managed with good management internally and externally. They could not manage the noise from street drinkers across the road in a park. This problem was part of a wider societal issue. The premises would not attract street drinkers because it did not sell alcohol.
- 3.32 Mr Elford did not have the full text of the plan but it would include how management and staff would deal with customers, delivery drivers etc, to ensure that the licensing objective of public nuisance was not undermined. He said that he would be willing to add wording into the condition stating that the External Management Plan would be produced in consultation with licensing officers.
- 3.33 Delivery of food was a legitimate activity. There would be strong management controls around the delivery of the food. The applicant was an experienced operator of takeaways. They do not just use Deliveroo and Uber eats, they also had their own delivery driver. If they received too many complaints about them, they would cease to use them.

- 3.34 Mr Elford said that members had heard a lot of information at this meeting that was not relevant. He reminded members that there were no objections from responsible authorities, and he asked for the application, with conditions, to be granted as applied for.
- 3.35 Councillor Best said that residents were concerned about potential noise from the premises, because the area was busy up until 11pm but was normally quiet at 2am. This quiet would be disturbed because takeaways were becoming more popular and delivery drivers used motorised vehicles. There were families living in the area who would be trying to sleep at 2am as well as those living above these premises.
- 3.36 Residents were also concerned that the premises could be a magnet for bringing people into the area. There was a concern that it could encourage anti-social behaviour in the park opposite the premises.
- 3.37 There had been a problem with litter in the area and there were concerns about litter management. The pavement opposite St Philip Neri had litter strewn on the pavement most mornings.
- 3.38 The Chair said that she was satisfied that members of this Committee had read and heard all the information required to make a decision. All members confirmed their attendance throughout the meeting.
- 3.39 The Chair said that a decision letter would be sent out within 5 working days. She thanked all parties for their attendance, and they left the meeting.

### **Exclusion of the Press and Public**

**RESOLVED** that under Section 100 (A) (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12 (A) of the Act, as amended by the Local Authorities (Executive Arrangements) (Access to Information) (Amendments) (England) Regulations 2006 and the public interest in maintaining the exemption outweighed the public interest in disclosing the information:

### **3. Savalan Kebab, 289 Sydenham Road, SE26 5EW**

The following is a summary of the item considered in the closed part of the meeting.

#### **Savalan Kebab, 289 Sydenham Road, SE26 5EW 6QP**

The Licence Committee has decided to grant the Premises Licence subject to the following:

- a. The hours permitted for the provision of late-night refreshments approved by the Licensing Committee are Sundays to Thursdays from 23:00 hours to 00:00 hours and Fridays and Saturdays from 23:00 hours to 01:00 hours.
- b. All conditions offered in Part M of the application and the conditions agreed with the Licensing Authority, as responsible authority, to attach to the Premises Licence.
- c. The additional condition offered in the Applicants written submissions, relating to the External Management Plan, shall also attach to the Premises Licence subject to the following additional wording highlighted in bold:

The Premises Licence Holder will devise, implement, and maintain an External Management Plan for the Premises. The External Management Plan shall cover, at a minimum:

- How customers will be directed away from the Premises
- How any customers loitering immediately outside the Premises will be moved on
- How delivery drivers will be managed

**The External Management Plan to be agreed with the Licensing Authority before the Premises open to the public for late night refreshments.**

A copy of the External Management Plan shall be kept at the Premises and made available for inspection by for Responsible Authority Officers upon request.

6. There is a right of appeal against this decision. Any appeal should be made to the Magistrates' court within 21 days beginning with the day on which the appellant was notified of the decision.

The meeting ended at 7.50pm

Chair