

**MINUTES OF THE MEETING OF THE LICENSING SUB-COMMITTEE
HELD ON WEDNESDAY, 8 JULY 2020**

COUNCILLORS

PRESENT (Chair) Mahmut Aksanoglu, Sinan Boztas and Jim Steven

ABSENT

OFFICERS: Ellie Green (Principal Licensing Officer), Charlotte Palmer (Senior Licensing Enforcement Officer), Balbinder Kaur-Geddes (Legal Adviser), Jane Creer (Democratic Services)

Also Attending: Mr John Palmer, Solicitor, Akin Palmer Solicitors, on behalf of the Licence Holder
Mr John Edgar, premises owner/landlord (SUP02)
Councillor Dinah Barry (Winchmore Hill Ward Councillor) (IP9)
Councillor Maria Alexandrou (Winchmore Hill Ward Councillor)
and Councillor Daniel Anderson (Southgate Green Ward Councillor), on behalf of interested parties

1

WELCOME AND APOLOGIES FOR ABSENCE

NOTED

Councillor Aksanoglu as Chair welcomed all attendees to the meeting, which was being broadcast live online. Sub-committee members confirmed their presence and that they were able to hear and see the proceedings. The Chair explained the order of the meeting.

2

DECLARATION OF INTERESTS

NOTED there were no declarations of interest in respect of the item on the agenda.

3

BROOMFIELD COFFEE BAR, 64 ALDERMANS HILL, LONDON N13 4PP

RECEIVED the application made by **MR ARJAN BORUFI** for the premises situated at **BROOMFIELD COFFEE BAR, 64 ALDERMANS HILL, N13 4PP** for the renewal of the Street Trading (Tables & Chairs) Licence (LN/201800896).

NOTED

1. The introduction by Ellie Green, Principal Licensing Officer, including:

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- a. This was an application for renewal for the tables and chairs licence under the London Local Authorities Act 1990. The applicant was Mr Borufi for Broomfield Coffee Bar, 64 Aldermans Hill, N13.
 - b. The premises was operated as a coffee bar during the day and a restaurant in the evening. It was located in a row of shops with residences above and nearby, and opposite Broomfield Park.
 - c. The application sought a like for like renewal, with the licensed area confirmed as 5 sq metres (5m x 1m) with a maximum of two tables and four chairs, from 08:00 to 00:00 daily. It was noted that the latest hour permitted for any tables and chairs licence is 23:00.
 - d. A premises licence review was brought recently for the venue. The hearing took place on 17 June 2020 and the decision notice was attached in Annex 2 of the officers' report.
 - e. It was confirmed that a minor variation to update the plan which forms part of the premises licence was granted on 1 July 2020.
 - f. A copy of the premises licence was appended to the officers' report and Condition 14 was highlighted in relation to use of the external area at the front of the premises.
 - g. Representation had been made against the application by the Licensing Authority (set out in Annex 5) and by 15 local residents including a ward councillor, referred to as IP1 to IP15 (set out in Annex 6).
 - h. Representation had been made in support of the application by three people, referred to as SUP01 to SUP03 (set out in Annex 7).
 - i. A response on behalf of the applicant was set out in Annex 8 and the supplementary report.
 - j. Mediation between the Licensing Authority and Mr Borufi led to a proposal that the outside chairs and tables be removed during peak pedestrian hours of 08:00 to 10:00 and 16:00 to 18:00, meaning effectively they would not be put out until 10:00 but they would be out between 10:00 to 16:00 and 18:00 to 23:00.
2. The statement of Mr John Palmer, Akin Palmer Solicitors, solicitor on behalf of Mr Borufi (Premises Licence Holder), including:
- a. The basis of the objection was that his client was unsuitable to hold a licence. He would say that Mr Borufi was not unsuitable.
 - b. Quotes from interested parties' objections, in particular IP1 and IP2, gave a flavour of where the objections were coming from, appearing to be more directed at the clientele and their ethnicity. They made allegations including that his client's premises had criminal gang connections: this was slanderous and libellous, and without evidence. They reserved their position against the allegations.
 - c. Interested parties' representations repeated what was put forward at the review hearing, and did not go to the issues of the tables and chairs licence application.
 - d. His client did not have a tables and chairs licence until April 2019. IP1 described an alleged incident of 'rival conflicts' and 'witnessing the tables

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and chairs of Broomfield Café Bar pavement seating area being thrown into the road' in June 2018. He believed prejudice existed against the licence holder, and questioned the motives behind the objections.

e. A lot of the objections mentioned social distancing. His client had adhered to guidelines in respect of the Covid-19 emergency, demonstrated in his submission and photograph 5 showing the signs at the premises: that it was take away only and the seating area was closed. Photographs 6 and 7 demonstrated that his client met the government requirements.

f. Other objections referred to patrons of the premises. IP3 repeated previous representations in relation to the review, which meant his client was effectively being tried twice on this. The photographs showed two or three people sitting and a clear pavement, and showed pedestrians walking by. Random photographs were shown of overflowing bins, and nothing linked his client to those bins.

g. In respect of safety and people being able to pass the premises, his client had sought to address this issue by offering a reduction of use in the peak periods. This took on board the representations of IP9, Councillor Barry. He offered to reduce the hours and to remove the tables and chairs during peak times, and felt this was a reasonable proposition.

h. There was hearsay evidence about chairs moved away from tables and obstruction of the footway but not much credence. It showed the mindset of those opposed to this business. This was also shown by IP10's description of male patrons: again not related to the suitability of his client to hold a tables and chairs licence. Similarly, comments from IP11, IP12, IP14 and IP2 did not go to the issue under consideration.

i. The initial plan had to be revised to clearly show the area for tables and chairs. The updated plan was highlighted, dated 20/6/20, which had a number of measurements and a red outlined area of the tables and chairs marked. From the end of the table to the pavement line was 2.3m. The distance from the end of the licensed area to the kerb was 2m. The pavement was 3m wide. At any given time when customers were sitting outside there was sufficient space for people to pass. It could be seen from objectors' photographs that people were passing fairly easily. Proximity to the parking meter was mentioned, but that was diagonal to the area.

j. The initial tables and chairs licence was granted by the local authority being aware of these dimensions and issues, and the layout of the pavement and the seating area had not changed.

k. Objections seemed to be on the basis that the café's clientele was made up of a lot of Albanians, that it was a den of iniquity, drug deals and human trafficking. He submitted that the drivers behind the complaints were unfounded allegations and were wholly wrong. His client would take advice from counsel in respect of libel.

l. Similar licences and use of the pavement were in place around the area. Photograph 1 of his submission showed the front area of the adjoining restaurant at no.90 where tables and chairs were literally outside on the pavement.

m. The panel should address the actual policies to be applied to the decision. The Council's Street Trading Policy was set out in Appendix 5.

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Having gone through this, other than one point in respect of safety issue, he could not find that his client had breached any of the conditions. It would be wrong to refuse the application on that basis.

3. Mr Palmer responded to questions, including:
 - a. In response to Members' queries it was confirmed that a change of hours was agreed so that tables and chairs would come out 10:00 to 16:00 to avoid the morning peak, and then again from 18:00 to 23:00 to avoid school home time. No tables and chairs would be put outside until 10:00, and they would be brought in at 16:00 to allow for peak pedestrian flow and put out again after 18:00. This would address the concerns around times when more people were passing the premises.
 - b. In response to Members' queries regarding complaints received after 2/4/20 detailed in the Licensing Authority representation, the administrative issues around the licence expiry were clarified by the Principal Licensing Officer but that tables and chairs were not permitted outside any premises between 23/3/20 and 4/7/20. Mr Palmer advised that during that period the premises were closed with only take away facilities being offered. His client had informed officers about re-opening.
 - c. In response to a question from Charlotte Palmer, the licence holder agreed that chairs would be placed facing each other, and not with their backs to the wall which could create a trip hazard if users stretched out their legs into the pavement.
 - d. In response to a question from Charlotte Palmer regarding steps to be taken to ensure there was no obstruction by customers standing between the tables and the kerb, it was advised that the licence would be operated in compliance with all conditions and this had not changed.
 - e. In response to Charlotte Palmer's question regarding reassurance that patrons would be monitored and supervised, it was advised there would be supervision on an hourly basis of the tidiness of the tables and chairs, and cleanliness, and staff would remind patrons to make sure the passing area was kept clear.
4. The statement on behalf of the Licensing Authority by Charlotte Palmer (Senior Licensing Enforcement Officer), including:
 - a. The Licensing Authority objected to this application in its entirety and believed the applicant was unsuitable as he had failed to comply with previous licence conditions.
 - b. The 27 conditions of the licence were set out in the agenda pack. The complaints listed and the issues raised by interested parties demonstrated that the licence holder had not complied with Conditions 5, 6, 18 and 21. Interested party photographs showed tables and chairs in use on 19/4/20. The applicant was advised twice, on 23/3/20 and 4/5/20 to remove the tables and chairs. They were not in the positions shown on the plan and there was an additional chair on one side. Even if not during the Covid-19 pandemic, this was not in compliance with the licence.

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- c. Condition 24 related to disturbance of nearby occupiers. The Licensing Authority did not believe this location was suitable for the licence, especially for the hours applied for. There was an offer to remove tables and chairs at peak times, but she would argue that rush hour was not over by 18:00, and that there should be no evening use as this was not a town centre location. The street trading policy stated that any evening use proposed should be in a town centre, and that day time use should be in commercial areas with significant pedestrians. This premises was not in town or in a shopping centre, but a mixed commercial and residential area. If there were residential properties nearby, the Council would seek to ensure there was no noise or nuisance.
- d. Officers had measured the pavement outside the premises on 18/5/20 and taken photographs, and noted the parking meter. The high flow of pedestrians was also taken into account, with many people passing to make their way to and from the station. The policy set out minimum widths required: normally at least 2m. This was also the first condition of the licence.
- e. She had read the concerns of IP1 to IP15, which included noise, lack of supervision, additional seating, customers blocking the pavement, anti-social behaviour, alcohol drinking, and discarded cigarette ends.
- f. In the applicant's submission it was commented that the complaint regarding noise was already dealt with at the review hearing and the same evidence should not be considered in fairness. This was not a prosecution case, and the panel could take the concerns into consideration, but this was not another review.
- g. The Licensing Enforcement inspection report was copied in the Licensing Authority representation as it cleared up the confusion about timings of tables and chairs outside.
- h. Mention of the Covid-19 lockdown period was relevant, as the licence holder was advised to remove the tables and chairs yet they re-appeared.
- i. She had not been involved in the previous application and did not know why the tables and chairs licence was initially granted.
- j. She was not aware of the circumstances of the IP1 photographs.
- k. Posters in two languages were not shown in the applicant's photographs.
- l. In respect of other nearby/similar premises, the applicant's photographs appeared to be taken from websites and did not include dates. The pavement of Aldermans Hill was not the same all the way along. Each application had to be considered on its own merits under the same criteria and in respect of the hours applied for. It should be noted that 90 on the Green (no 90) was further up the street from this premises at no 64.
- m. In respect of the allegations made by IP2, she confirmed that the authority had no evidence to back up the allegations.
- n. She confirmed she had sight of the up to date plan.
- o. The key issues for consideration were safe and convenient pedestrian movements, and residential amenity. She was not sure that these could be controlled by the applicant or that the applicant was suitable to hold a tables and chairs licence.

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p. However, if the sub-committee was minded to grant the licence, she would recommend that reduced hours were considered of 10:00 to 16:00 and the prevention of any evening use. This would be in line with the applicant's offer to remove the chairs and tables at 16:00.

5. Charlotte Palmer responded to questions, including:

a. In response to Mr Palmer's question regarding criteria applied to all tables and chairs licence applications and the control required over patrons, it was confirmed that the same criteria were looked at when decisions were made. It had been asked if Mr Borufi would place chairs facing each other: that was not within the standard conditions but followed from what was noticed from photographs, the potential for obstruction, and what may be offered by the applicant, bearing in mind the pavement measurements.

b. In response to Mr Palmer's queries regarding evidence of photographs, it was advised interested parties had stated when their pictures were taken. Some of the applicant's photographs of other premises seemed to be taken from websites and may not be up to date, and any issues may have been dealt with already. IP2's representation had been received, but the Licensing Authority had no evidence of those allegations within it.

c. In response to Mr Edgar's queries regarding the hearsay and exaggeration in interested parties' representations, it was advised they had put forward concerns experienced themselves and that there were recurring themes.

d. In response to Mr Edgar's queries regarding tables and chairs outside Nissi restaurant, the photographs submitted were recognised as before 2017, but the current licence held would be checked by officers.

*An update was provided by the Principal Licensing Officer later that Nissi did not have a tables and chairs licence, and she would pass this to the Licensing Enforcement team for investigation.

6. The statement of Councillor Dinah Barry, Winchmore Hill Ward Councillor (IP9), including:

a. It had been found that Mr Borufi had not been complying with terms of the licence.

b. The outside tables and chairs had been the focus of some of the problems experienced.

c. It had been suggested the permitted hours should finish at 16:00 or 17:00. She suggested an earlier time would be appropriate as people had to pass on their way to local schools.

d. She had not personally witnessed the problems, but had received numerous complaints from constituents, some of whom referred to the premises by its previous business name Bambinos, beginning in October 2018. The premises did not have a tables and chairs licence at that time, but they did have tables and chairs outside. Officers visited and the manager said he would sort it out.

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- e. She submitted written complaints on 25/5/19 and 9/9/19 as the same issues had arisen with large numbers of people gathered outside the premises.
 - f. At the other nearby premises mentioned, one had seating around the side and the other at the back: not on the footway. There was also a café in the park. The area did not need an extra outdoor café space.
 - g. She did not have confidence that the licence would be operated properly. There had been evidence of non-compliance at the premises over several years.
7. Councillor Barry responded to questions, including:
- a. In response to Mr Palmer's queries regarding some of the issues referred to in the representation, it was advised that these demonstrated the compliance with licence conditions. Also the outside tables and chairs were responsible for the people gathering, and this related to the public nuisance issues, and did relate to the previous hearing. She would maintain that residents had plenty of provision for sitting outdoors at cafes in the area. Any suggestion by Mr Palmer that she did not want the business to exist at all was his opinion.
 - b. In response to further queries from Mr Edgar, she confirmed that whether there was adequate provision in the area was one of the criteria for consideration.
8. The statement of Councillor Daniel Anderson, Southgate Green Ward Councillor, including:
- a. There were clear issues of trust and compliance in respect of the licence holder.
 - b. He was representing IP1, but the concerns raised by them seemed to be backed up by others and by officers.
 - c. There was a history of non-compliance at the premises, and a disappointing lack of acknowledgement of issues. It was questionable whether the café could be trusted to comply with the rules of the tables and chairs licence. It was entirely relevant to take into account previous issues.
 - d. The evidence submitted by IP1 demonstrated the factors against granting the licence around disturbance.
 - e. He had witnessed blocking of the pavement, and officers had detailed this in their evidence.
 - f. Given the decision at the review hearing, if minded to grant, this licence should not be given until there was evidence that the premises licence suspension had been adhered to. A grant was not appropriate at this moment in time.
 - g. He would argue that any tables and chairs permission should be for no later than 16:00.

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- h. He had no problem with cafes in the area and would like to see them operating without trouble. He had not received complaints about any other cafes in the areas.
 - i. The evidence from this premises suggested regular problems including noise, conflicts, traffic, pavement drinking, etc and a history of not adhering to licence conditions.
 - j. If there was evidence of improvements in behaviour and no further problems over the next few months, the application should be re-considered, but he was concerned the licence holder did not accept there were problems and he had responsibility.
 - k. If the panel were minded to consider granting a licence, it should be on restricted hours.
9. Councillor Anderson responded to questions, including:
- a. In response to Mr Palmer's query about IP1's reference to an incident which pre-dated his client's ownership of the premises, it was advised that the business had a history of problems, and there was other evidence from local residents and from officers.
 - b. In response to Mr Edgar's query that the interested party also made representation to the review hearing, but had provided no photographic evidence to this hearing, it was advised that a statement had been submitted and the facts spoke for themselves and were backed up by external and independent sources.
10. The statement of Councillor Maria Alexandrou, Winchmore Hill ward councillor, including:
- a. She was speaking on behalf of all the other interested parties.
 - b. The business owner had failed to address concerns from residents about the customers outside his premises.
 - c. People hung around outside from 06:00 until late at night, obstructing the pavement. It was difficult for people to pass by and polite requests to make way were met with aggressive responses. There was an unwelcoming atmosphere there. Outdoor tables and chairs encouraged more people to hang around and block the pavement. Additional chairs sometimes brought out when sport was screened led to further obstruction.
 - d. Women passers-by reported being leered at and made to feel uncomfortable and distressed, with some experiencing menacing behaviour, and many crossing the road to avoid confrontation outside this premises. One was followed home. It should be ensured this was a safe space to pass by freely.
 - e. Cigarette ends were thrown on the floor and not swept up.
 - f. Noise was not monitored by the management.
 - g. The school run started at 15:00 so removal of chairs at 16:00 would be too late.

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- h. She questioned the mention of Nissi restaurant. She had not received reports of problems with other cafes.
 - j. She resented implications that the residents were lying in their representations.
 - k. The business owner was not fit to have this licence.
11. Councillor Alexandrou responded to questions, including:
- a. In response to Mr Palmer's queries about serious allegations being made, she confirmed she was telling the hearing what residents had said to her.
 - b. In response to further queries about evidence of drinking as early as 06:00, there were many representations from residents and this had been stated.
 - c. In response to queries about evidence of additional chairs out during sporting events, she did not have a record of dates but it related to screening of premier league football matches.
12. The statement of Mr Edgar (SUP02), including:
- a. He was the owner and freeholder of 64 Aldermans Hill, and received rent from Broomfield Coffee Bar.
 - b. He objected to the printing of racist comments in the interested parties' representations while keeping their names hidden. He found some remarks of IP2 particularly distressing and offensive.
 - c. He believed the 14 representations were orchestrated by a residents' network and there was a campaign of persecution, hate and xenophobia. Hate had also been shown towards him.
 - d. There was hardly any definitive evidence.
 - e. He had counted the dwellings in the four local roads (Aldermans Hill, Derwent Road, Lakeside, and Grovelands Road) and there were around 497 dwellings. In this report there were 15 objections. Therefore around 96% of local residents had not written in objection.
 - f. He questioned many parts of IP2's representation. It was not true there were men drinking outside the premises from early morning. The representation put an emphasis on lockdown and social distancing, but that would be gone in the near future. The photographs did not show crowds of people on the pavement.
 - g. Similarly, there was no proof that alcohol was being drunk before 11:00 as alleged in IP3's representation. The fact that the majority of customers were male was not unlawful. In respect of accessibility, his own image showed there was also a step into the neighbouring tea shop.
 - h. He viewed IP5's description of 'crowds of people' outside as an exaggeration, and contested that they abused residents' rubbish bins.
 - i. It was not true as claimed by IP7 that the café spilled out onto the street at all times. Attached photos referred to were not there: maybe as it was recognised they would undermine the comments.

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- j. The Chair, with the support of the legal services officer, reminded the hearing that interested parties and councillors on their behalf had already spoken and questions had been taken, and Mr Edgar's statement should focus on his supporting evidence.
 - k. Mr Edgar would continue to give comments in his defence, and to address IP10's mention of knowing at least one person who lived in one of the flats above who has moved due to the café and behaviour. This was untrue and there was evidence from his text message from the tenant, who left on 6/6/20 to move to Ireland and noted he had been very happy at the flat and felt very safe there. This was the only person who had moved out of his premises.
 - l. He advised that IP1 was a tenant of his for over 20 years and had made complaints throughout that time, including about previous owners of the restaurant and against fellow tenants, and had caused other problems. Letters sent to him were included in his additional representation. The views from his window were also shown, to demonstrate the limits on what could be seen of the area, particularly when the awning was down. Several of IP1's claims were questionable, and the allegations about reasons for an incident on 11/6/18 were speculation. He was saddened by the video but it was a one-off occurrence and was a fight in the road which was not an uncommon occurrence in the borough.
 - m. In a recent conversation with a street sweeper he found the amount of litter to be small and that there were no problems outside this café. Problems around refuse disposal were identical on the next parade and linked to collection processes, and should not be directed at his tenants.
13. Mr Edgar responded to questions, including:
- a. In response to queries from the Chair, he confirmed he lived some distance from the premises and visited once or twice per month and he had no direct involvement or knowledge of the tenant's tables and chairs licence.
 - b. In response to Charlotte Palmer's query that the text message cut off mid-sentence, it was confirmed that was the complete message.
 - c. In response to Charlotte Palmer's query that the letter may have alerted his tenant to the dangers around storage of inflammable liquids, it was suggested alternatively that his tenant may be hypocritical.
14. Following a short comfort break adjournment, the summary statement of Ellie Green, Principal Licensing Officer, that having heard the representations from all parties it was for the sub committee to determine the appropriate steps to take. The relevant legislation and policies were highlighted.
15. The summary statement of Charlotte Palmer, Senior Licensing Enforcement Officer, that the Licensing Authority believed that granting this renewal would prevent safe and convenient pedestrian movement and would detract from residential amenity, particularly in the evening. The poor

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control of behaviour and the breaches of conditions led to the conclusion that Mr Borufi was not suitable to hold a tables and chairs licence. The authority continued to object to the application in its entirety.

16. The summary statement of Councillor Maria Alexandrou, Winchmore Hill ward councillor, that the premises owner had proved to be unsuitable by not being able to control anti-social behaviour and noise. His lack of compliance showed that the tables and chairs licence should not be granted.
17. The summary statement of Mr John Edgar, SUP02, that the tenant knew he needed to manage the business more professionally, and had made initial steps following the review including installing the noise limiter. He maintained there had been persecution of the business owner. A licence revocation could put the restaurant and its jobs in jeopardy and also put him out of business and risk the housing of his tenants during these uncertain times. He asked for compassion to be shown and Mr and Mrs Borufi to be treated fairly and justly.
18. The summary statement of Mr John Palmer on behalf of the licence holder, including:
 - a. He endorsed points made by Mr Edgar. He had debunked a number of the representations and the evidence put forward by interested parties. The hearings procedure highlighted that hearsay evidence may be given less weight than direct evidence.
 - b. The plan showed sufficient dimensions between the seating area and the pavement. The argument that people could not walk by freely was untrue. The initial licence was granted by the Council and nothing had changed.
 - c. The officers were allowing themselves to be brow beaten into the will of a small number of people who wished the premises not to be there.
 - d. Highways authorities raised no objection.
 - e. He acknowledged the licence holder could do better in terms of management, and it was not claimed the business was run perfectly, but the application had to be looked at objectively. The applicant had put forward proposals.
 - f. There were 24 conditions and evidence suggested one real breach in respect of tables and chairs, with advice given at the visit in April.
 - g. The interested parties' representations were a re-hash of the same arguments put forward in the recent review. Serious allegations were made and were unfounded. Some of the comments were unacceptable and may be pursued outside the hearing.
19. The summary statement of Councillor Dinah Barry, Winchmore Hill ward councillor, that it was important to focus on objective facts and evidence and these were available to substantiate that people were not always able to move by freely. The premises had not complied with the requirements of the licence on many occasions. There was unarguable evidence.

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RESOLVED that

1. In accordance with the principles of Section 100(a) of the Local Government Act 1972 to exclude the press and public from the meeting for this item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7 of Part 1 of Schedule 12A to the Act.

The Panel retired, with the legal representative and committee administrator, to consider the application further and then a decision announcement meeting reconvened.

2. The Chair made the following statement:

"Having read the evidence and representations of the Applicant, the Licensing Authority, IP1-15 and SUP1-3 and also heard the oral representations of the said parties and/or their representatives, the renewal is refused.

Please note the Licensing Sub-Committee has in particular taken into account the representations for the Applicant, including the concessions to limit the hours. On balance taking account of its Street Trading Policy dated 17 September 2008 and the provisions of Section 25 London Local Authorities Act 1990, to refuse the renewal application on the basis that the Applicant is considered unsuitable to hold the licence at present, pursuant to Section 25 sub-section (6)(b) namely, that the applicant is on account of misconduct or for any other sufficient reason unsuitable to hold the licence. In particular, the Licensing Sub-Committee has noted the complaints made to the Licensing Officers by residents in the locality of the Applicant's business, at pages 34-37. The Licensing Sub-Committee has also noted that the Applicant on 4 May 2020 was requested to remove the table and chairs, and it was evident at this stage that the Applicant was not adhering to restrictions in place to comply with COVID-19. Accordingly, the Licensing Sub-Committee at this stage do not consider the Applicant's conduct is suitable to grant a licence."

3. The Licensing Sub-Committee **RESOLVED** that the renewal application be **REFUSED**.