

LICENSING AUTHORITY REPRESENTATION

This representation is made by Enfield's Licensing Enforcement Team and is made in consultation with and on behalf of the Trading Standards Service (inspectors of Weights & Measures), Planning authority, Health & Safety authority, Environmental Health authority and the Child Protection Board.

I confirm I am authorised to speak at any hearing on behalf of the Licensing authority, Trading Standards Service (inspectors of Weights & Measures), Planning authority, Health & Safety authority, Environmental Health authority, and Child Protection Board).

Name and address of premises: Indian Fusion
252A High Street
Enfield
EN3 4HB

Type of Application: Variation of a Premises Licence

I certify that I have considered the application shown above and **I wish to make representations** that the likely effect of the grant of the application is detrimental to the Council's Licensing Objectives for the following reasons:

Background History:

This is a variation application for restaurant to amend the licensed hours as follows:

Activity	Current Hours	Hours Applied
Open to the Public	11:00 – 00:00 everyday	11:00 – 00:00 everyday
Open – Delivery Only	Not Licensed	12:00 – 03:00 everyday
Alcohol	11:00 – 23:30 everyday	No change
LNR	Not Licensed	23:00 – 00:00 everyday
LNR – Delivery Only	Not Licensed	23:00 – 03:00 everyday

Location

This is a detached property with an alley running up the side of it. A door from the kitchen opens out into the back of the alleyway. There are residential properties above shops in the nearby parade, the bedrooms of which are at the back. In order to avoid noise from delivery vehicles arriving and leaving late at night disturbing residents it is recommended that deliver vehicles do not park at the back of the premises.

History

24/11/06 – New Premises Licence granted.

17/12/16 – Officer let a voicemail for the Premises Licence Holder asking for evidence that the annual fee had been paid as no such evidence received.

12/05/17 – Licensing Enforcement Officer emailed premises Licence Holder asking for evidence that the annual fee had been paid as still not received.

31/05/17 – Anonymous complaint received from alleged local resident in relation to noise from the back of the restaurant and deliveries. They also advised that the premises was advising on 'Just Eat' stating that they deliver until 2:30am.

16/06/17 – Out of Hours Licensing Enforcement Officers (EVL/CPX) visited the premises and advised the Premises Licence Holder that they required evidence that the annual fee had been paid as receipt not submitted as Annual Fee letter requests. The Premises Licence holder advised that the annual fee was paid over the phone in November. Officers also advised that if he wanted to supply late night refreshment he needed to apply to vary the premises licence to add on LNR. Inspection report completed, signed by PLH and copy issued.
5 days given to address.

22/06/17 – Evidence of annual fee payment received – paid 15/11/16.

22/06/17 – Complaint received from an agent advising that they had been employed by someone (who wishes to stay anonymous). Their client alleged that the premises is trading LNR without a licence to do so. The agent advised that on 15th June 2016 an independent consultant visited the premises and that noted that Indian Fusion was trading from the front of the premises and a different business – Southern Fried Chicken appeared to be trading from the rear of the premises. The consultant found the business advertising on 'Just Eat' and placed a hot food order at 23:16 which was delivered at 23:50.

27/06/17 - PLH called Licensing Enforcement Officer (CPX) and asked what licence application he needed to make to get a LNR licence. Whilst he was on the phone the officer told him about the complaint and that they had received evidence to show that they have been trading LNR without a licence. He was advised that he may be in a Cumulative Impact Policy area so may not get beyond midnight and must not hand over any hot food or hot drink after 23:00 until he has the licence allowing him to do so. He was warned that officers would be checking on the premises. He agreed and admitted that they had been testing out LNR to see how it would work and said he was being honest and wanted to know how to go about getting a licence. He advised that he wanted to deliver late night refreshment until 02:30.

28/06/17 - Anonymous complaint received from same alleged local resident repeating allegation that premises is trading without late night refreshment on the premises licence until 02:30. They advised that the delivery drivers are making lots of noise and that they enter and leave via the back of the premises until 4am in the morning. The noise affects residents sleep.

30/06/17 - 00:35 - 01:20 – Out of Hours Licensing Enforcement Officers (CPX/VPK) arrived at premises. Male walked out of alleyway carrying a small plastic bag - looked like he was off to do a delivery on foot. Restaurant appeared closed but door could be seen open at the back of the premises which leads on to an alleyway. Flier in window advertising LNR - photos taken. Walked down alleyway and saw staff in kitchen cooking chips, onion rings, chicken. Phone ringing and orders printing out on a small hand held printer, past and pending orders displayed on wall. A male was seen leaving the kitchen with a plastic bag and getting into a car - looked like he was off to do a delivery. Officers advised they are not licensed for LNR and must stop. Staff made a phone call and advised officer that the owner would be back in 10-15 minutes. Officers looked around the premises and both took photos. Mr Ajahar Ali arrived at the premises and apologised and said that he knew he should not have been trading especially after the officer had already told him not to but said that he had employed the staff for the whole week and had to pay them anyway and that he had also bought

the stock and didn't want it to go to waste. He showed the officers an application that he had printed out to show that he had taken some action since the previous advice. Officers advised all late night refreshment must cease until a licence was in place and issued a Notice of Alleged Offence.

03/07/17 – Formal warning letter sent to PLH.

14/07/17 – 23:50 – Out of Hours Licensing Enforcement Officers (EVG/CPX) visited the premises to see if it was trading. It was closed.

Cumulative Impact Policy (CIP)

This premises is located in one of the Enfield Council's Cumulative Impact Policy Areas.

The CIP came into force in April 2012 and relates to all new and variation applications and states that the core hours granted for this type of premises in this particular location should not exceed the following:

Late night refreshment:
Monday to Sunday 23:00 – 24:00

The hours applied for exceed those of specified in the CIP.

Where the hours applied for exceed those specified in the CIP there is a presumption that the application will be refused.

As demonstrated in the CIP this location is already an area of concern in relation to crime and disorder and public nuisance. In these circumstances the onus falls upon the applicant to make the case to demonstrate that there would be no negative impact on the area if the application were to be granted.

I wish to make representation on the following:

Prevention of Public Nuisance

Although the noise complaints have not been witnessed by officers, the observations and alleged illegal trading has reduced the Licensing Authority's confidence in those running this premises. The Licensing Authority therefore objects to the hours applied for and instead recommends that maximum hours be granted in line with those permitted by the CIP.

If the Licensing Sub Committee decides to grant this application in full or part I recommend that the following conditions be attached to the licence in order to fully promote the licensing objectives:

Annex 2 - Conditions consistent with the Operating Schedule

3. There shall be no adult entertainment or services, activities or matters ancillary to the use of the premises that may give rise to concern in respect of children.

4. Children under the age of 18 shall only be permitted in the premises if it shall be non-smoking throughout or alternatively only in a separate no smoking area of the premises which is physically separated from any smoking areas until such time as legislation is introduced to control smoking in public places, the exception being

attendance at private functions e.g. family events such as weddings, birthday parties and for the collection of take-away food.

Remove – Covered by Health Act 2006

5. Signs shall be conspicuously displayed at all exits requesting patrons to consider local residents and leave the premises and the area quietly.

Amend - Prominent, clear and legible notices shall be displayed at all public exits from the premises requesting customers respect the needs of local residents and leave the premises and area quietly. These notices shall be positioned at eye level and in a location where those leaving the premises can read them.

Add

- All staff shall receive induction and refresher training (at least every three months) relating to the times and conditions of the premises licence.
- All training relating to the times and conditions of the premises licence shall be documented and records kept at the premises. These records shall be made available to the Police and/or Local Authority upon request and shall be kept for at least one year.
- Staff shall ensure that the pavement from the building line to the kerb edge immediately outside the premises, including the gutter/channel at its junction with the kerb edge, is kept clean and free from litter at all material times to the satisfaction of the Licensing Authority.
- Delivery drivers shall be instructed to conduct all deliveries in a quiet manner so as not to disturb local residents.
- All delivery vehicles shall park at the front of the premises.

I reserve the right to provide further information to support this representation.

If these conditions and amended times were accepted in full I WOULD withdraw my representation.

Duly Authorised: Charlotte Palmer, Licensing Enforcement Officer

Contact: charlotte.palmer@enfield.gov.uk

Signed:



Date: 27/07/17