

# Annex 8

## Representation by the Applicant in respect of Tables and Chairs Licence

The Applicant would like to correct a slight discrepancy in the renewal application in that the Licensed area should be 5 metres and the maximum measurements section of the application should refer to a length of 5 metres by 1 metre, in other words, 5m x 1m.

The Applicant notes that the Licensing Authority opposes this renewal on the ground that the Applicant is "unsuitable to hold a licence".

The Applicant is unclear as to precisely why it is alleged that he is "unsuitable" but will nonetheless endeavour to address the matters set out in the LA's representation.

It should be noted that the Table and Chair Licence renewal was first granted on 3<sup>rd</sup> April 2019, this should therefore be the reference point.

The Applicant comments as follows in relation to each of the allegations by reference to the dates.

1. **29<sup>th</sup> June 2019** This is a complaint in relation to the noise level at the Premises which has already been dealt with at a separate hearing and therefore, this is relying on the same evidence twice and is against the principles of equity and fairness. The thrust of this complaint was in relation to noise audible from speakers at the Premises and not in relation to the use of the Tables and Chairs outside.
2. **9<sup>th</sup> July 2019** **11<sup>th</sup> July 2019** **26<sup>th</sup> Sept 2019** The Applicant makes the same observations in that this relates to complaints of "noise" from people outside the Premises. It is inevitable that there will be a degree of conversation and voices heard outside and public access area. This cannot fairly be said to relate directly to the use of the Tables and Chairs. In any event, these matters were also relied on previously at another hearing which has been determined, and once again the Applicant is "being tried twice" on the same evidence. This is simply unfair and against the rules of natural justice.
3. **27<sup>th</sup> Feb 2020** The Licensing Conditions which were stated as not to be compliant as per Appendix 1, have since been addressed by the Applicant.

The Applicant would point out that the hours permitted under the Licence was erroneously stated as being up until 12am and that is a mutual misunderstanding as between the Applicant and the Street Trading Licence Authority and that this should have been a 24 hour clock.

It should also be noted that the officer indicated that the Licence was to be REISSUED by the Licencing Authority with the correct times, but the officer was not able to do so before the lockdown. Subsequently, the Premises Licence expired and again due to the lockdown there was a delay in reissuing this.
4. **23<sup>rd</sup> March 2020** This was in relation to the lockdown period and, again, not in relation to the express use of the Tables and Chairs outside of the Premises. The Applicant confirmed on occasions that although there were patrons outside of the Premises, the Tables and Chairs were not placed outside the Premises.

The Advice given by the officer was in relation generally to Covid-19 social distancing, again, not related to the question of Tables and Chairs.

It should be noted that the officer's report stated as follows:

"The officer was aware that the pavement outside these premises is not very wide, so it is unlikely that people could pass those outside within a 2-metre gap even if only one person was outside".

This therefore reflects the fact that again, this is not a matter that lays squarely with the suitability of the Applicant to hold a Licence.

The Applicant acknowledges that the recent Covid-19 pandemic poses challenges for all and matters should be viewed in that light on a fair and balanced basis.

## **LOCATION**

It is worth noting that the Tables and Chairs Licence was initially granted in April 2019 by the Licensing Authority. Therefore, it is unclear to the Applicant why the LA having previously granted a licence and being fully aware of the prevailing conditions now seeks to assert that as the Premises is not located in the Town Centre it cannot be ensured that pedestrian movement outside the Premises would be safe and convenient .

## **PEDESTRIAN MOVEMENT AND SPACE**

The Applicant will submit that on the basis of the photographs depicted at IP1 Representation, which was intended to show pavement obstruction, in fact the photographs show nothing of the sort. Insofar as the tables and chairs depicted in those photographs show that patrons were within the required perimeter of the subject premises and there is no pavement obstruction.

The photograph of the Broomfield Café clearly shows pedestrians being able to walk quite easily pass the sitting customers.

The reference to the Premises being located in a row of shops opposite Broomfield Park and close to one of the main entrances into the park, Palmers Green, does indicate that there could be a high flow of pedestrians at peak periods. However, it should be noted that the Premises are not the only café/premises with outside seating/tables and chairs close to the Park. The same argument could therefore be made in relation to the nearby premises with similar amenities. This is not uncommon in any number of high streets all over the country.

For instance, as can be seen from the photographs annexed hereto at the Appendix, a number of other nearby premises also have and have been granted tables and chairs licences. Therefore, it would be grossly unfair to deny this one establishment similar facilities.

It would appear that a considerable part of the objections put forward in this matter is down to the fact that a fair number of patrons of the Premises are of ethnic minority, Albanians, and the Premises are primarily frequented by a large number of members of that community.

London Borough of Enfield, like others, is a diverse and multicultural area, representative of various communities. Accordingly, a degree of tolerance, accommodation and understanding is called for.

There seems to be objections in the main to the lifestyle of the patrons, such as their smoking habits. Of Course, whilst smoking may be deemed unpleasant and unacceptable to some, it is not forbidden or prohibited in open spaces.

With regard to the issue of "previous noise level", the Applicant has taken on board the points made at the previous hearing referred to above and has put in place a number of practical steps.

The photographs attached hereto (photographs 5-7), clearly show the following.

1. Signs both in English and Albanian have been put up at the Premises to inform the patrons of the requirements to limit any noise nuisance and/or inconvenience to members of the public.
2. Adequate and appropriate notices regarding social distancing have also been put up at the Premises, to take account of the impact of the Covid-19 Pandemic.

#### **Other Premises Nearby**

The Applicant draws attention to use of the Pavement by nearby/similar establishments/eateries

- (i) As can be seen from the first photograph of "90 on the Green" (No 90), a similar establishment nearby, the No 90 premises places its tables and chairs predominantly on the pavement outside its premises.
- (ii) Similarly, the second photograph shows patrons at No 90 on motorbikes standing outside those premises, along with other persons on the pavement.
- (iii) The third photograph shows the pavement being substantially taken up by customers of No 90.

The Applicant contends that the nature of the objections in relation to its Premises appear to be more directed at the clientele, which as stated above are mainly of Albanian ethnic minority.

With regard to the contention that granting renewal of the Licence would be adversely in the interest of space to allow drivers and passengers of cars parked to be able to fully utilise the area, the same argument would of course be applicable to the majority of the other similar premises along that stretch of road.

The Applicant will submit that if it is intended not to grant a Tables and Chairs Licence, or that its hours be restricted, then the same yardstick must be applied to ALL the other premises on that stretch of road which share the same pavement to include No 90 on the Green and also the premises next door to it, which is also a restaurant with a similar tables and chairs licensing permit.

This would ensure consistency and transparency and demonstrate that one set of patrons from one part of society are NOT treated differently and less favourably than others.

#### **SCANDALOUS, LIBELLOUS AND MALICIOUS ALLEGATIONS**

The Applicant, in particular, takes great exception to a substantial part of the supporting statements put forward under the cloak of anonymity, which ought to have no place in this matter.

A prime example can be found under IP2, which contains wholly scandalous, unsubstantiated and libellous allegations that the Premises have "Albanian Criminal Gang Connections" and goes on to allege that "the Premises are a hub for Human Trafficking and drug deals"

IP2 further goes on to conclude that if the Council is afraid to take appropriate action, ....."some sort of alternative action" would be taken.

The above is clearly indicative of the mind set at play in this matter. Further such statements are clearly intended to unfairly prejudice the Committee's view of this application and calculated to do harm and damage to the Applicant's reputation and business as well as being defamatory of the Albanian patrons and community in general.

The Applicant wholly reserves all of his legal rights and remedies against all parties in respect of this document regardless of the outcome of this application.

### **THE PLANS**

The Applicant will submit an up-dated and compliant Plan and apologises for the minor discrepancies in the Plan submitted thus far.

The Applicant's representative will make further submissions in respect of IP1, IP2, IP3, IP4, IP5 to IP15 and reserves the right to make additional representations.

The Applicant refers to the supporting representations SUP01-SUP03, as being fair , reasoned and balanced in their observations and the Committee is invited to place reliance on these rather than some of the plainly scandalous and scurrilous "kitchen sink" objections in opposition.

### **CONCLUSION**

For the foregoing reasons, the Applicant submits that it would be unjust and inequitable to revoke the Tables and Chairs Licence, which would in effect disadvantage this business as against similar businesses in the vicinity and would also amount to pandering to prejudice from some quarters.

The Applicant and his family have worked hard to seek to build a successful business. The Applicant accepts that whilst the business sometimes has not been perfectly run, they are a work in progress and are continually striving for improvements, like all people and businesses.

The Applicant asks to be treated with fairness and understanding.

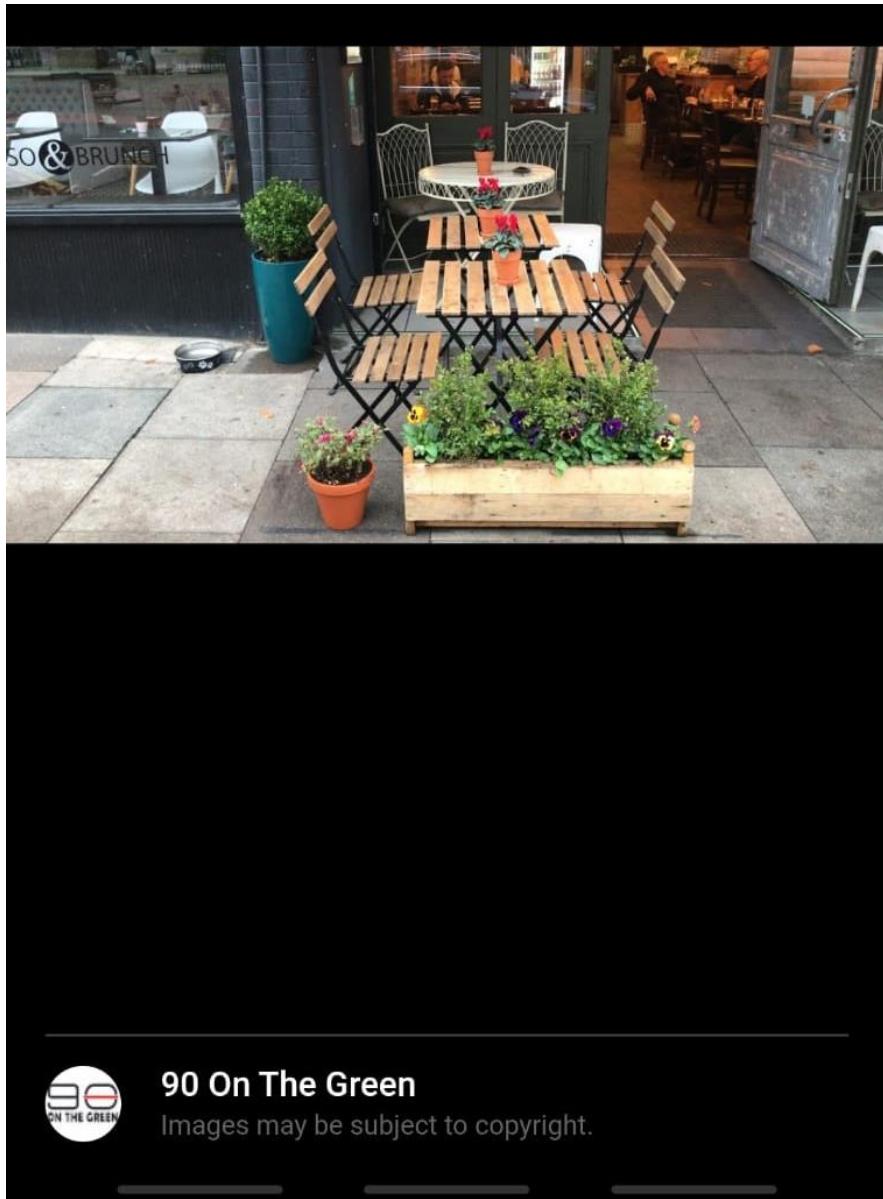
The Applicant has taken and will continue to take practical steps to ensure compliance with the terms of the Licence and the applicant welcomes any additional assistance and guidance which the Committee and LA are able to provide in this respect.

AKIN PALMER LLP  
Solicitors for the Applicant  
30<sup>th</sup> June 2020

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## **APPENDIX**

PHOTOGRAPH 1



**90 On The Green**

Images may be subject to copyright.

PHOTOGRAPH 2



90 On The Green

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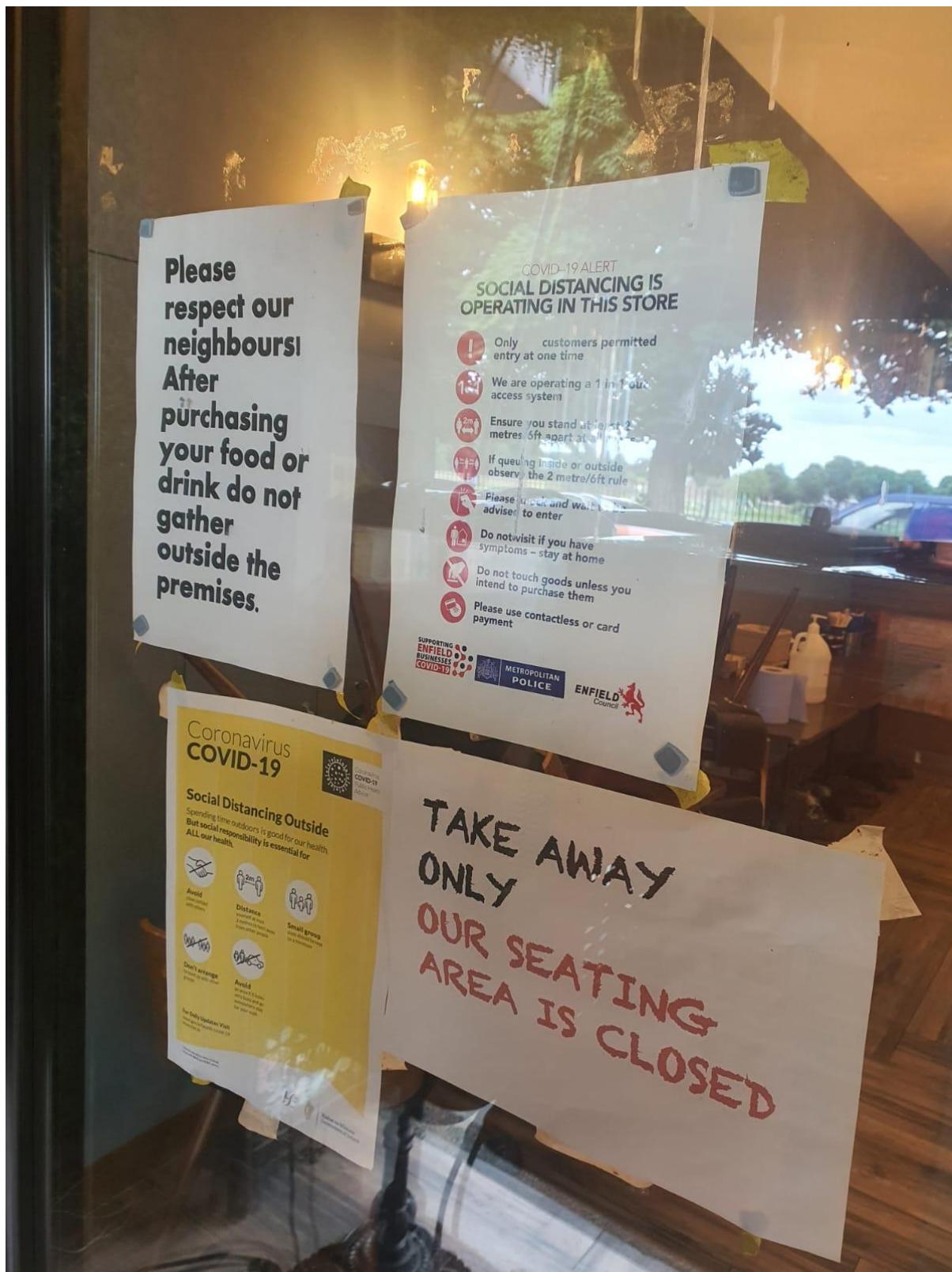
PHOTOGRAPH 3



PHOTOGRAPH 4



PHOTOGRAPH 5



PHOTOGRAPH 6



PHOTOGRAPH 7



PHOTOGRAPH 8

