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LICENSING SUB COMMITTEE

12th November 2019

Supplementary Information

Item 7 – Application for the grant of a premises licence for Nawaz Restaurant 51 - 53
Austhorpe Road, Cross Gates, Leeds, LS15 8BA

Statement to LCC Entertainment Licensing

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Statement to Entertainment Licensing Leeds City Council

Statement to accompany “Parties Notice of Intention” Form,

(Statement by E J Judge, Cross Gates Watch Residents’ Association)

Licence number PREM/04403/001

Hearing date: 12/11/2019

**Address to which application pertains: Nawaz, 51 - 53 Austhorpe Road Cross
Gates Leeds LS15 8BA**

Dear Sir

This application relates to an Indian restaurant at the above address which has planning permission, the last permission having been granted in 2013 (Application 12/03811/FU, 31 January 2013). This states that “The opening hours of the restaurant shall be restricted to 17.30-23.00 hours (Monday to Saturday) and 12.00-23.00 hours on Sundays.” (It adds the reason for these hours to be: “In the interests of the amenity of nearby residents in accordance with UDP Review (2006) policy GP5”). The actual hours advertised on the web site differ marginally from these, The restaurant currently does not have a licence for the sale of alcohol, but patrons are welcome to bring their own alcohol (as per a notice on the exterior). It is not known why the establishment is now applying for a licence.

We have no objection in principle to such an application, but we do object to the precise details of what is being asked for here. The licensing application deviates substantially from the extant planning permission in key respects, and also deviates substantially in key respects from almost all alcohol licences granted in Cross Gates, in particular from ones granted immediately adjacent to it within the last several months.

The applicant wishes to have a licence for the sale of alcohol which exceeds substantially (by some 6.5 hours daily) what is allowed in the planning permission, especially wishing to remain open for an hour longer at the end of the day (2400, not 2300). While Planning Permissions and Licensing Permissions may, for various logical reasons, differ to some extent, where applications differ very substantially it is a material consideration which merits some examination as to the possible reasons, or lack thereof. There are, as just indicated, very large deviations between the licensing hours asked for in this application, and the opening hours allowed in the planning permission.

The grounds of our objections are as follows:

1. Licensing hours allowed in other nearby establishments:

Across the road from the Nawaz is Slips at 55 Austhorpe Road, which was given planning and licensing permission earlier this year. Slips’s licence

permits sale and consumption of alcohol indoors and outdoors from 10:00 to 22:30 only. No doubt the Licensing Committee made this stipulation because of the need (in line with licensing objectives) to limit the impact on local residents in terms of closing time.

The upper floors of Slips are residential, containing four flats, with planning permission for a further two flats already granted to be added on the end of the building. Opening hours later than 2230 will have a significant impact on residents, and the Nawaz being open across the road till midnight would aggravate this.

Moreover, there are dwellings in the same terrace occupied by Nawaz, which will be disturbed by late hours. Nawaz is 51-53, and 43-45, just two doors away, are residential, containing four flats. Other residences are near by.

Though it does not open until 3 March 2020, one may also quote the opening hours allowed for the new Wetherspoons pub which is very near to the Nawaz at 39-41 Austhorpe Road. The Planning Inspector's decision notice says, "Condition 10) The premises shall only be open for customers between the following hours: 0700 – 2330 Sunday to Thursday; and 0700 – 0030 the following day on Fridays and Saturdays"; "Condition 12) The beer garden shall only be open for customers for the consumption of food and drink between 0900 and 2200 on any day and the doors between the beer garden and the customer area shall remain closed between 2200 and 0900 the following day except for transit between the beer garden and the customer area for customers using the smoking shelter and staff employed at the premises."

Wetherspoons was granted a license for the sale of alcohol PREM/04194/002, on 29 May 2019. This limits the sale of alcohol to 09:00 – 23:00, Sun-Thurs, and 9:00 – 24:00, Fri&Sat. These closing hours were presumably set in alignment with the hours of licensing at the Traveller's Rest and The Barnbow (thus avoiding any surge between licensed establishments with differing closing hours). And as the beer garden will close at 2200, no alcohol will be served outdoors at all after 22:00 on any day. Consequently, Nawaz's application for alcohol to be served indoors and outdoors until 24:00 every day seems rather excessive (note: the license application indicates clearly that alcohol can only be bought inside, but it can be consumed inside and outside).

It is also worth noting that Wetherspoons operates a very tight management policy, and does not allow alcohol to be taken out of the pub. Given the history of the events surrounding the Manston pub in 2005/6, control of alcohol consumption outside licensed premises is something to be highly aware of, and, no doubt, Entertainments Licensing is conscious of this. We refer further to outside consumption of alcohol below.

2. Observance of the licensing objectives

As always with license applications, the Licensing Committees expect comments to be framed within the four licensing objectives: prevention of crime and disorder; public safety; prevention of public nuisance; protection of children from harm.

Our comments under sections 1 and 2 above mainly fit under the heading of **public nuisance** but there may also be a **public safety** issue. Back in 2012, when Nawaz applied to convert his upper floor to restaurant use, there was some dialogue with G. L. Barker & Co., 47-49AR, re vehicle access at the front. Barker's agreed that Nawaz customers could park in front of their (Barker's) premises in the evening, after 5.30pm, as long as Nawaz guaranteed unimpeded access to Barker's place for their (Barker's) clients and staff during the day — which was not a problem as the Grant of Full Planning Permission, Condition 6, states "The opening hours of the restaurant shall be restricted to 17.30-23.00 hours (Monday to Saturday) and 12.00-23.00 hours on Sundays."

However, Nawaz is now applying to sell alcohol indoors, but for consumption indoors and outdoors, 12:00-24:00, every day. As far as outdoors is concerned, this has to be at the front as there are no side or rear areas for patrons unless they stand on the public pavement of Church Lane. So, if facilities are to be provided for patrons outdoors at the front, will this not clash with vehicles and pedestrians entering and leaving the site to get to Barker's forecourt? This is a public safety issue. There is only one way in to Barker's (and the flats at 45) and that is across the Nawaz forecourt from Church Lane. The front of Nawaz is laid out for parking (apart from the central bit to allow vehicles to cross the Nawaz forecourt to get to Barker's), and no space is allocated on the plans for the external consumption of food and drink. It is worth noting that the parking area in front of the terrace 43-53 Austhorpe Road used to be the individual gardens of the individual houses, which each had a path leading down to Austhorpe Road with garden gates. While 43 Austhorpe Road still has its separate access from Austhorpe Road to the two flats there, 45 Austhorpe Road has access to the two flats there in the same way as Barker's staff and patrons across the land of 53.. The rights of way/access of the residents, workers and patrons of 43-51 Austhorpe Road across the forecourt of 53 Austhorpe Road are set out in the records held at the Land Registry.

Overall Conclusions

While no objection is being raised to the general principle of the Nawaz having a licence for the sale of alcohol, we object to the licensing hours being requested for 365 days per year, which deviate hugely without obvious reason from those granted in the parallel planning permission (thus generating enforcement action by the planning authority), and, in terms of closing times are significantly later than any other licensed establishment in the area either already open or planned to be open. Apart from the potential public nuisance this will create, this will have two undesirable knock on effects. First, it will encourage other establishments to push for the same extended closing hours (thus exacerbating the public nuisance problem). Second, the deviations in closing times for the sale of alcohol will

encourage the on street movement of patrons between establishments to take advantage of extra drinking time. This increases the risk of on street incidents, and is an issue of public safety. Unlike the situation in 2005/6 with the Manston pub, the numbers of people likely to be about at later hours now is much higher than then, with more pubs and many more establishments selling alcohol (J D Wetherspoons will have an internal seating capacity of 550, and 650 including the beer garden), while access to police support will be much further away in Garforth with lower staff levels..

The further public safety issue of external consumption of alcohol at Nawaz deserves mention in relation to the need for Barker's customers and staff and residents of the flats in the terrace to be able to safely access these properties across the Nawaz forecourt. (In this connection, it is relevant to ask whether Nawaz patrons will still be encouraged to bring their own alcohol, and can this be consumed outside?).

We submit that the license for the sale of alcohol, if the Committee sees fit to grant it, should commence at 1730, and terminate at 2230, as at Slips across the road, with an exception being made on Sundays when the sale of alcohol can commence at 1200 (in line with the planning permission).

Yours faithfully,

E J Judge
Cross Gates Watch Residents' Association.
4 Nov 2019