

Licensing Act 2003

## Notification of determination



Hearing under Sections 17 and 18 of the Act, and the Licensing Act 2003 (Hearings) Regulations 2005 In respect of an application made to the Oxford City Council for a Premises Licence

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Date of hearing: **3<sup>rd</sup> July 2017**

Place: **Town Hall, Oxford**

Case No: **17/01557/PREM**

Applicant: **Mr Wahidul Islam**

Premises: **Temptations Dessert Parlour**

Premises address: **264 Cowley Road, Oxford, OX4 1UH**

Licensing Sub-committee Councillors: **Colin Cook (Chair), Liz Wade, Chewe Munkonge**

Legal Advisor: **Daniel Smith**

Licensing Officer: **Allan Hibberd**

Clerk: **Nabiha Green**

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The Sub-committee heard representations from the following:-

**Licensing Authority:** Allan Hibberd (Senior Licensing Officer)

Mr Hibberd presented the Licensing Authority's report, stating that the Sub-Committee had been convened to determine an application for a new premises licence. Mr Hibberd stated that the application had attracted representations from Thames Valley Police (TVP), Environmental Health and 3 Interested Parties. Mr Hibberd also noted that during the consultation process with Environmental Health, the applicant had removed: Live Music, Performances of Dance and Similar Entertainment from the application.

**Applicant:** Mr Wahidul Islam

Mr Islam drew the Sub-Committee's attention to his business proposal. He felt that during the consultation period there had been misconceptions about what it intended and emphasised that it did not mean that all desserts would be alcoholic. He said that this was a concept that has been introduced in cosmopolitan cities and that his current gelateria has already been affected by the opening of Sundaes Gelato on Cowley Road, therefore he wants to introduce something new.

He continued by saying that the portion of alcohol would be minimal and that it would take a significant amount of product for a person to become intoxicated.

He emphasised that he was happy to work with the responsible authorities to alleviate their concerns and confirmed that he had officially withdrawn Live Music and Dance from the application.

He also indicated that his request for Recorded Music is only as background music, not at a level that people could not hear each other during conversation. When asked by the legal advisor if he would therefore remove Recorded Music from his application, as background music at the level he described does not fall under a licensable activity, he said yes and apologised for any confusion caused.

Mr Islam proceeded to speak about the operating hours requested and said that he only wished to go along with other businesses on Cowley Road and that he would leave this to the Sub-Committee's discretion.

Mr Islam stated that maximum capacity of the premises is 40 people, whereas premises such as Aziz or Bar Baby on the Cowley Road were able to hold many more than that, he stressed that if someone was to take over Aziz, with its current conditions, that would have an additional impact on the area.

He emphasised that he was happy to take any public safety measures as per the police recommendations.

When asked to respond to the possibility of a condition that allowed the sale of alcoholic beverages only when also buying a dessert or other food item, Mr Islam said that he agreed with that and that the premises will not be a pub or a club. He is simply looking for an opportunity to sustain his business.

Mr Islam stated that the premises are a dessert parlour, where other options would be available. When asked whether this was only in the evenings, Mr Islam said that they would be serving the same things day or night.

Mr Islam reassured the panel that even if the dessert parlour failed it was not his intention to turn the premises into a pub or a bar. He said that he would be happy to accept a condition that restricted the licence to use as a dessert parlour only as he greatly believes in his business concept.

Mr Islam said the concept is that of a "fixed meal price", as in they would have to purchase dessert before being able to have a drink. He emphasised that he was not trying to make the premises a cheap venue.

Mr Islam said his premises would be selling gelatos, other types of desserts and will have a juice corner.

Mr Islam said that the seating has already been laid out and he has opted for sofa style seating, so that it is more relaxing for customers.

In response to further questions Mr Islam stated that he would take all precautionary measures necessary so that customers would not become intoxicated and that there are other premises on the Cowley Road for that purpose. He said that he was happy to liaise with the police and environmental health in this regard.

He was happy to reduce the licencing hours of the business from the times set out in the original application to: up to 11pm on Sunday to Thursday, and up 12am on Friday and Saturday.

## **Responsible Authorities:**

### **Andy Dean (Thames Valley Police)**

Mr Dean asked Mr Islam to clarify whether the sale of alcohol was for on sales only, which Mr Islam confirmed.

Mr Dean said that after looking at the Applicant's proposed operating schedule the police had a number of suggested additional conditions, all of which Mr Islam had indicated his agreement to.

These included tightening the wording of the CCTV condition, training of staff, a minimum of £10 spent on food prior to the purchase of alcoholic beverage, keeping of an incident log and refusals entry, a challenge 25 policy and that no persons below 18 years of age to be allowed into the premises after 8pm.

A list of the suggested conditions was received by the Sub-Committee. Mr Islam confirmed he had seen them and was in agreement.

### **Dave Acreman (Environmental Health)**

Mr Acreman said that as Mr Islam had agreed to withdraw Recorded Music from his application, Environmental Health no longer had any objection and withdrew its representation. He did suggest to the Sub-Committee that a notice inside the premises advising patrons to leave quietly may assist in alleviating any noise concerns that have been raised.

Mr Islam indicated that he was happy to do that.

### **Interested parties: Ms Katherine Miles, Mr Muhammed Younas Khan & Mr Tom Knollys (Divinity Rd Area Residents Association).**

None of the interested parties attended the Sub-Committee hearing but their written representations were noted.

## **Decision and Reasons of the Sub-Committee**

1. The Sub-Committee considered all submissions, both written and oral. It also had regard to the relevant Home Office Guidance and the Council's Statement of Licensing Policy, in particular policy GN19 (Special Saturation Policy)(SSP) and PP1 (Pubs, Restaurants, Hotels, Guest Houses).
2. The Sub-Committee noted that the application was for a new premises licence within the limits of the East Oxford Special Saturation Area. The burden was therefore on the Applicant to show that a licence could be granted without adding significantly to cumulative impacts problems.
3. Having considered: the nature of the proposed operation as a restaurant style desert

parlour; the amendments made to the application and the additional conditions agreed with Thames Valley Police, the Sub-Committee was satisfied that a licence could be granted without aggravating cumulative impact problems.

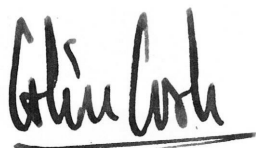
4. The Sub-Committee found that in order to promote the objectives of preventing crime and disorder, protecting children from harm, public safety and prevention public nuisance, it was appropriate to attach a number of additional conditions to the licence.
5. For the avoidance of doubt the Sub-Committee noted the amendments to the application from that submitted as:
  - a) removal of all Regulated Entertainment
  - b) hours Sunday – Thursday 12.00 – 23.00  
Friday – Saturday 12.00 – 00.00
  - c) removal of 'off sales'.
6. The application was otherwise in accordance with the Licensing Objectives.

The application, as amended, was therefore **GRANTED** subject to the following additional conditions:

- i. Sales of alcohol shall cease 30 minutes prior to the licensed closing time.  
(reason: prevention of crime and disorder)*
- ii. The premises licence holder shall ensure that CCTV cameras are located within the premises to cover all public areas including entrances and exits. The system will record clear images permitting the identification of individuals. All footage must be securely retained for a minimum of 28 days. The system will operate at all times the premises are open for licensable activities and must have a constant and accurate time & date stamp generation. All staff will be trained to provide immediate viewing capability on request of Officers of Thames Valley Police or the local Licensing Authority. The recorded footage must be able to be downloaded onto a removable media upon request or in any case within 24 hours of a request in accordance with the Data Protection Act 1998 or any replacement legislation.  
(reason: prevention of crime and disorder)*
- iii. The Premises Licence holder shall ensure that an incident log is kept to record all incidents that occur within the premises during licensable activities. The log shall include the following details: date; time; nature of incident; person(s) involved (name or description; action taken including any police reference number; staff member that dealt with incident. The log shall be viewed on a weekly basis by the DPS and signed.  
(reason: prevention of crime and disorder)*
- iv. All staff shall be trained in aspects of licensing practice and legislation to include at a minimum; underage sales, proxy sales, Challenge 25 policy, CCTV reviewing, incident log, refusals log, conditions on the licence and how to meet them. Training shall be given within two days of commencing employment. Completion to be recorded in writing showing date and time, what was trained, who by and signed by trainer and trainee.  
(reason: prevention of crime and disorder)*

- v. *The Premises Licence Holder shall carry out a risk assessment for all pre-arranged events that are held at the premises, including those covered by a Temporary Event Notice (TEN). The assessment shall include consideration of the need for door staff. The assessment shall be kept in writing and provide the reasoning for decisions made.*  
(reason: prevention of crime and disorder)
- vi. *When a TEN is in place all conditions attached to the Premises Licence shall apply.*  
(reason: prevention of crime and disorder)
- vii. *A minimum desert food order of £10 shall be made before any alcoholic beverage may be purchased. Alcoholic beverages shall be served by waiter / waitress service.*  
(reason: prevention of crime and disorder)
- viii. *No alcohol purchased at the premises may be taken outside the premises.*  
(reason: prevention of crime and disorder and prevention of public nuisance)
- ix. *Staff shall ensure that customers do not obstruct the pavement immediately outside the premises.*  
(reason: prevention of crime and disorder and prevention of public nuisance)
- x. *A refusals log shall be kept to record all refused requests for alcohol. The log shall include the following details: date, time, alcohol requested; name or description of person refused; reason for refusal; staff member that dealt with incident. The log shall be viewed on a weekly basis by the DPS and signed.*  
(reason: prevention of crime and disorder)
- xi. *No person under the age of 18 years will be allowed in the premises after 2000 hrs.*  
(reason: protection of children from harm)
- xii. *Prominent, clear notices shall be displayed at all exits requesting that customers respect local residents and leave the premises and the area quietly.*  
(reason: prevention of public nuisance)

Signed:



Chair of Licensing Sub-committee

Notes:

- A. The applicant, and any responsible authority or interested party that has made representations upon the application has a right of appeal to the Magistrates' Court against this decision. If you wish to appeal you must do so within 21 days of being notified of the decision.

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