

London Borough of Brent

Decision of the Alcohol and Entertainment Licensing Sub-Committee following a hearing on 21st January 2021 at Brent Civic Centre, Engineers Way, Wembley HA9 0FJ, via Zoom

NOTICE OF DECISION

PREMISES

Neasden Food & Wine
490–492 Neasden Lane North
NW10 0DG

1. Members of the Sub-Committee

Councillors Long (Chair), Ahmed and Hylton.

2. The Application

The application is for a new premises licence for the sale and supply of alcohol and to stay open from 08.00 hours to 23.00 hours Monday to Sunday, by Mr. Omar Imtiaz Ahmed under section 17 of the Licensing Act 2003.

The premises fall within one of Brent's Cumulative Impact Zones.

Written representations were received from the following:

PC Gary Norton 965QK on behalf of the Metropolitan Police. He objects to the application for a number of reasons relevant to the prevention of crime and disorder, public nuisance and public safety and the protection of children from harm objectives.

The area where the premises sit consists of densely packed residential housing with a small pocket parade of businesses. This area is recognised as having become badly affected by crime, disorder and anti-social behaviour (ASB) which resulted in the London Borough of Brent designating Cumulative Impact Zones under the Statement of Licensing Policy 2020–2025.

In the immediate area, within a 50m radius, there is only a small handful of business premises. Two of them are off-licences. Slightly further along, no more than a minute or so walk, there are another five off-licences in the next group of shops. Despite the small business area, there is therefore a relatively large number of on/off licences in close proximity. PC Norton stated that this has facilitated the bad habits of street drinkers,

giving them easy access to alcohol which is often compounded by irresponsible sales. This has had a negative effect in the area, leading to more crime, disorder and public nuisance and even children having access to alcohol.

PC Norton was concerned that crime, disorder and ASB in the area is slowly rising again and adding another off-licence, which relies a lot on alcohol sales, would add to those issues. Another off-licence joining the existing competition would be likely to drive prices down and potentially lead to inappropriate sales to under 18s. There is often a large contingent of schoolchildren of various ages near that location because of the presence of a McDonald's.

Esther Chan on behalf of the Licensing Authority. She objects to the application for a number of reasons. Firstly, the premises lie within one of ten Cumulative Impact Zones (CIZ) in Brent. She refers to the statement of Licensing Policy which came into effect on 7th January 2020.

The entire Borough of Brent is also subject to a Public Space Protection Order (PSPO) but in reality there are limited police officer resources which prevent the PSPO conditions from being enforced in practice. This places a greater emphasis on the responsibility of those premises that are selling alcohol for consumption off the premises. If off-licences did not exist, the number of street drinkers would decline. Simply selling alcohol to customers, who once off the premises are no longer the responsibility of the licence holder, DPS and/or members of staff, is no longer a viable option.

Ms. Chan conducted a visit in the area on 14th December 2020 and noted that the premises are currently closed. On 18th December she spoke to Mr. Omar Imtiaz Ahmed via telephone to obtain further information related to the application. Although the applicant mentioned having experience in running similar premises in the past, Ms. Chan was concerned that the operation schedule failed to demonstrate that a grant would not lead to a negative cumulative impact on one or more of the licensing objectives, and to the contrary would add to the issues of an existing saturated area.

In Ms. Chan's view, adding conditions to a licence would not be adequate when the application does not demonstrate what is being put in place to avoid further cumulative impact. Adding an additional off-licence to the eight that already exist in the immediate area would no doubt be detrimental to the local area.

In the event that contrary to their representations a licence was granted, both the Police and the Licensing Authority submitted a list of further conditions which they would require to be added to it.

Written representations were received from 14 members of the public, together with two petitions bearing over 400 signatures. The signatures themselves were redacted for data protection purposes. The written representations from local residents focussed primarily on problems with street drinking, the safety of residents and especially children in the area, and litter and soiling of the streets.

As written representations had been received, a hearing was held pursuant to section 18 of the Licensing Act 2003.

3. Representation

The applicant attended with Mr. Surendra Panchal as Agent.

The Metropolitan Police were represented by PC Gary Norton.

The Licensing Authority was represented by Esther Chan and Linda Legister.

Local residents [REDACTED] and [REDACTED] attended.

4. The Hearing

Ms. Linda Legister introduced the application.

PC Gary Norton set out the police representations and asked that the application be rejected in its entirety. He stated that crime and ASB in the area if anything have risen in the last 6 months. There are already seven similar venues in a small vicinity with a small number of possible business venues present. Neither the police nor the council have sufficient resources to oversee every aspect to the degree they would like. 24 hr police security governing the streets is not an option: they are already too stretched for that.

PC Norton stated that the need for positive action to address crime and ASB issues comes through in the CIZ but there was nothing to suggest in the application that there is anything unique about this venture. Lower prices are good for food but less good for alcohol in an area associated with street drinking and ASB. There is no discrete area for alcohol in the plan. There would be no objection to a food store with bakery and other items but street drinking is already a problem. PC Norton felt that competition with existing premises could cause a price war and increase pre-existing problems.

Ms. Esther Chan pointed out that the premises fall in a CIZ and agreed with PC Norton's position. She referred to her written representation and the other similar businesses in the area. She had had the opportunity to speak to the applicant on the 18th December. He

confirmed it would be a regular convenience store but believed that the other stores within close proximity were overpriced. He intends to provide a bakery and selection of fresh fruits and vegetables. Ms. Chan had received no communication from the application or agent providing any training manual, explaining how the premises are different to others, or other reason why her view should be changed. If the sub-committee were minded to grant the application, she proposed a series of conditions.

██████████ stated that his objection was to existing street drinkers and the possibility of a price war, which would increase the amount of street drinking.

██████████ indicated the number of existing premises and the recent difficulties in the area. There are people who consume more and more alcohol each and every day in Neasden. They are vulnerable and another off-licence would result in cheaper alcohol being sold. There are schools in the area but those children are more vulnerable than usual since they are not attending school at present.

In response to questions from the panel ██████████ stated that alcohol sales had increased in lockdown, of beers and spirits especially. People don't go to work and have nowhere to go. Anti-street drinking notices were put up did not stop it and shopkeepers and residents still have to call the police. Broken bottles and litter were left around all shops in the area, including around the applicant's premises. ██████████ was a local resident who lived above a shop but had no connection to it.

In response to questions from the panel ██████████ answered that street drinking was a problem in Neasden Lane North, with drinkers being rude and increasing problems in the area. There has been an increase in children attempting to buy alcohol so they have to trust the store staff to sell responsibly.

In response to questions from the panel PC Norton stated that he was aware of an overall street drinking issue in Neasden Lane North and that its character had changed since the start of the pandemic. Street drinking now consists of people from different communities in groups. They do not necessarily stand out as being individuals to whom alcohol should not be sold and don't live on the street but drinking is a part of their culture and they will continue to drink on the street. Litter, cans and bottles are then left lying around, especially on the side roads and around the backs. There are a number of HMO issues in the area, with large numbers of people in a packed residential area with a high population. PC Norton agreed there are not many pubs in the area to which people could go to drink. In his view catching street drinkers would require surveillance but police officers' day-to-day duties have increased during the pandemic and they are stretched very thinly. The police have ascertained that there are problems but he suggested that the best indicator

of current problems is the residents' petitions, since current police presence in and knowledge of the area is limited.

In response to a question from Cllr Long, Ms. Legister stated that the precise map of the CIZ was a matter for the licensing team.

In response to a question from Cllr Hylton, Ms. Chan stated that there were a few complaints a couple of years ago in relation to concerns with street drinkers. Those premises were warned. There had been nothing more recently but there were growing complaints to do with ASB. In terms of licensing, there are complaints about car repairs, illegal street trading and ASB other than street drinking specifically.

In response to questions from the applicant's agent, Mr. Panchal, PC Norton stated that the conditions submitted would not be sufficient to give enough support to the licensing objectives. PC Norton sent the conditions to add a level of protection for residents and expedite this process in the event that the council went against his advice and granted the licence. He knew providing conditions for the event of the licence being granted would help the council to make an informed decision. When referred to the proposed premises plan, PC Norton stated that problems in the alleyway behind the shop would not disappear if the business were to open: that might simply move the problem up the road.

In response to questions from Mr. Panchal, Ms. Chan stated that the application form and operating schedule were not sufficient to show reflection on the CIZ. She would expect an applicant for premises in such an area to go above and beyond, providing structured information showing research into the area and more. When she spoke to the applicant he said he had read about the CIZ but was not able to elaborate on it further, which exacerbated her concerns. Ms. Chan accepted that Mr. Ahmed was able to answer her questions about the licensing objectives but stated that he was not able to elaborate on them. She had invited him to provide further information/comments but received nothing.

In response to questions from Mr. Panchal, [REDACTED] stated that [REDACTED] owned the shop and that she was no relation of his. The licence holder of the shop was [REDACTED]. The petition had been carried out by another local resident associated with the neighbourhood watch. [REDACTED] ran the post office within the shop.

[REDACTED] stated that [REDACTED] ran the shop. She runs the post office and lives there but [REDACTED] [REDACTED] has nothing to do with the shop. They collected the petition from people who came into the shop and from local residents living in the area.

Mr. Panchal presented the case on behalf of the applicant. This area is in a CIZ. That does not mean that the application cannot be granted if sufficient promotion of the licensing objectives is proved and it does not hinder the CIZ. The petitions were shopkeepers worried about another shop opening up in the area causing competition. What his client would achieve is a good thing – a bakery – and he had good plans. The Challenge 25 policy would be in place, neighbours' concerns would be dealt with, there would be a training manual and incident book on the premises, and the full licensing objectives would be robustly promoted.

This will be a bigger shop like a Tesco Express. His client's family has 30-40 years' experience in running these kinds of businesses. During those years they had not breached any of the licensing conditions. They ran multiple shops including one in Cricklewood for over 12 years, where his client was the licence-holder with no breach of licensing conditions. The shop would contain a bakery and fruit and veg sections. It would not be fully an alcohol shop: alcohol would be 20-30%. In this day and age people want to buy everything in one place and the alcohol would supplement the other goods. There would be two cash points and two cashiers in the shop. There would be four other people working on the floor so about six staff when the shop is open. There would be staff trained in security. It would be secure and provide employment for 9-10 people on the basis of two shifts including two members of staff (in the two different shifts) trained in security. His client wanted to work with the responsible authorities and had done so in the past.

At the present moment the shop is closed. His client is spending over £100,000 to refurbish the shop. They hoped that the licence would be granted and the guidance is that supermarkets should usually be allowed to sell alcohol unless there are good reasons why they should not. The shop would be well secured with security in place, they would not sell anything of strength over 5.5% and they were happy to follow the conditions laid out by the police and licensing officer. They would sell nothing over 5.5%, no miniatures and no single cans. This is a bigger vision of how the shop will run and seems to be worrying the other shopkeepers in the area who, based on the objections, were worried by the possibility of a bigger shop, Tesco Express, Sainsbury's Express in the area.

His client would not sell cheap alcohol: there are limitations on alcohol price and he would not undercut the other shops. He would follow the legislation and make sure the right prices are charged. He would ensure all the waste collection is in place and all staff are trained in the licensing objectives. Much care would be taken. When Mr. Ahmed was interviewed by Ms. Chan the licensing officer, he clearly stated his family had been in the supermarket trade for 30–40 years and he had worked in supermarkets since leaving secondary school. He had answered all Ms. Chan's questions correctly. With all his experience and his vision and plans, the licence should be granted.

In response to questions from the sub-committee members, the applicant stated that his shop on Walm Lane was a family business in which he had worked since school. He has worked in various areas across London in different branches and had personal licences, premises licences, in his name. He is local to Neasden Lane. It is a busy main road with residential side roads. He was aware of the crime situation. At the moment the premises have been closed for quite a while. There is a closed road at the rear of the shop and parking at the sides and rear. When he took over there was broken glass and people loitering but he cleared a lot of that up and put in floodlights. In the evening people park up and are a nuisance, drinking and sometimes vomiting. When the business is open there will be a presence of people inside the premises and, unlike others in the area, it would be well lit. There will be good visibility – no posters in the windows – so he thought that would be some comfort to people walking in the area.

The applicant stated that there would be an in-store bakery inside the shop with the ovens in the storeroom. Spirits would obviously be behind the counter. There would be a small wine section, small beer section and cooler for beers with shutters so that outside licensing hours the shutters will be closed with no access to alcohol, not to customers or staff. Bread would be sold to the left as you come in, around the shelving area. It would not be a specialist baker but would provide fresh bread, croissants, French bread etc. His focus will not be alcohol but frozen foods, cleaning products, fruit and vegetables, soft drinks. Fruit and veg from Spitalfields fruit market would be displayed on the forecourt with everything else inside. He stated that he wished to sell alcohol because of the convenience. The premises would not be a specialist off-licence but people might want to buy a bottle of wine with food for their convenience. He would join Nisa, a retail consortium which provides special offers on dairy products, household products, cleaning products etc. to attract non-drinkers He would not promote alcohol but would like to have it in-store.

The applicant answered that the car park could contain 4 cars parked properly. Bays would be marked and floodlights in place for the evening. He did not want anybody hanging around or dumping rubbish. Since taking over he had had two skips. People are still dumping rubbish but because they know there are renovation building works going on they try not to go there. There would be CCTV of the side and rear of the shop with the security officer inside the shop looking after the exterior. Someone would maintain the fruit and veg display outside the shop and could also keep an eye on the parking. There would not be anything at the front to block access to the carpark. Opposite the counter would be two large TV screens as CCTV monitors. There would be at least 16 cameras inside the premises. One screen will show fruit and veg, outside and rear. Staff at the counter will be able to monitor it and the same will be applied in the back office: a manager, myself or a member of the family sitting in the premises watching the TVs.

He answered that the main licensing objectives are prevention of crime and disorder, promotion of public safety, prevention of public nuisance and protection obviously of children and minors from harm.

The premises are not currently supervised and the parking is open. There are two shops across the road. The applicant saw people drive there, park, walk across the road and walk back. People don't like paying for parking and at the moment the parking is used for the shops across the road. They are parking illegally – there is a notice warning of clamps – but that is not being enforced because the premises are empty. The barber next door has parking at the back. The parking might be used for personal or staff parking. The applicant stated that he would like his shop to be so good that people would drive to it, and would provide a convenient place to park if people wanted to drive, but that most would walk in. He did not think that local residents would drive in but might walk in on their way home. He intended to provide a delivery service for the elderly.

The outdoor displays of fruit and veg would be at the front and side on the private forecourt. It would be self-service with payment taken inside the shop. A member of staff would fill and maintain the display and help customers. He would not sell it for £1 per bowl. The bakery would sell French stick, baguettes, croissants and pastries but not ordinary loaves. There would be sliced bread delivered daily with the milk.

The applicant had a 15-year leasehold interest in the shop.

In response to questions from Ms. Chan, the applicant stated that training would be conducted by an agent on all occasions. He is the DPS and had dealt with street drinkers before, when he would politely tell them to leave. He tends not to serve them because they are nuisance and do not form the impression he wants outside his supermarket. He characterised street drinkers as people who buy some cans, go outside, chill out with their friends and maybe smoke. The applicant stated that he does want that kind of atmosphere around my business; the supermarket would look bad and good customers will be deterred. There would be heavy CCTV monitoring of the external area from the back office, remotely from home and by cashiers watching the monitors in front of them. He would not sell paper cups.

In response to the suggestion from the sub-committee that he would be the start of the chain, with drinkers buying a four-pack from him at the start of the evening and then buying single cans from elsewhere later on, the applicant answered that sensible shopkeepers would not sell to someone under the influence of alcohol. If someone had bought four single cans from elsewhere and then came to him, he would not serve them. He would not sell to anyone who was a regular street drinker. He could not liaise with other shops but could deal with his own staff. He had been in this business since leaving

school. He said he had seen prostitutes, street drinkers and suited & booted people who look responsible but smell of alcohol. He would not sell to them: his licence is his bread and butter.

The applicant stated that fruit and veg would be some of the shop's income and that non-drinkers might come in for fruit and veg, frozen foods, soft drinks and cleaning products. He would sell pre-packed meats, both halal and non-halal. The wall behind the counter will be cigarettes, spirits, wine, beer, mineral water, juice and cordials along one row. Then a small chiller for wine and beer. The fridge for meat was wrong on the shop plan but would be 5m in size, beside the staircase. That fridge would contain meat and dairy products. It would stock only the necessities, not a full range or specialist products but the daily products people buy.

In response to a question from Ms. Chan pointing out that she had just conducted a land registry check and the side of the premises did not belong to him, the applicant responded that he did own a part of it (the front). Should he need further space, he would obtain a licence to display on the side. In response to further questioning he stated that the shelving would be only up to waist height so as to allow everything to be visible through the windows.

In response to questions from PC Norton, the applicant stated that excluding his family businesses he had a butcher's supermarket and a body repair shop in Neasden. He previously bought, ran and sold shops but decided to take a break. It would be run as a family business with him, his wife and other family members there the majority of the time. During licence hours there would always be a manager and two or three licence holders on site. PC Norton pointed out that many family and corporate businesses operate in similar fashions but that in CIZ areas the question is what is unique or better, to reassure the authorities that the business can open and serve alcohol. The applicant responded that he was not opening a corner shop selling alcohol, but a similar shop to a Tesco Express or a Sainsbury's. He acknowledged a substantial part of the business would relate to alcohol but said that the business would focus on other areas. He did not agree that alcohol would make up 20–30% of the business based on shop layout.

In response to questions from the sub-committee, the applicant stated that there would be two electronic tills with two cashiers at all times. He anticipated 10–15% of the business' turnover being alcohol but did not know how much money that might represent. It would maybe be 10–15% when quiet but that was just an average guess. He had decided to open a shop here because in his view there was no convenience shop on that stretch of road. He was not talking about Lidl for a weekly shop with trolleys or M&S in the petrol station or Asda. People would rather shop in convenience for a packet of cigarettes, bar of chocolate, bread or nappies than queue in a supermarket. He had not heard of the 15-

minute neighbourhood concept. The applicant acknowledged that there was a street drinking problem in Neasden Lane North and the adjoining roads and described problems with people dumping rubbish, broken glass, empty beer cans and vomit even whilst his premises had been shut. He said he would prevent this, with floodlights and bins in place with rubbish collection. The area around the shop would be monitored and kept as clean and comfortable as possible. He intended to work with the local community to improve the area. Staff would be fully trained to identify street drinkers and those who smell of alcohol or who appear to have been drinking by their body language or expressions. Street drinkers and those already drunk or tipsy would not be served, which would be a decision made by the member of staff on the counter.

Ms. Chan then summed up on behalf of the licensing authority. She said that the premises fall in an area saturated with residential dwellings and an array of shops. Alongside street drinking there are other issues including ASB. The applicant stated that he had made some changes already, including floodlights, but the authority had seen an increase in street drinkers using alleyways for their drinking habits. She continued to oppose the application on the basis that it was neither unique nor bespoke. Whilst the applicant is happy to satisfy all the proposed conditions, were issues with respect to the display of fruit and vegetables outside potential breach of condition 17. If the sub-committee granted the licence, Ms. Chan suggested that that condition be removed.

PC Norton then summed up on behalf of the police. He said the answers and reassurances given did not show exemplary planning despite the premises falling in a CIZ. The applicant had acknowledged how difficult it can be to prevent sales to street drinkers and in PC Norton's view, the only defence is to prevent the licence being granted in the first place. The only unique points of the business were the fresh foods and groceries, which were more like a USP than the alcohol. The applicant had emphasised how much money he spent on this venture but he had not done so out of charity or the goodness of his heart, but to make more money. This is a family business that would not have professional specific door staff as security officers. The only tools to prevent more street drinking were hopefully good judgment, which is in short supply in that area and many areas around it. PC Norton pointed out that when answering Cllr's Ahmed's question about what the licensing objectives are, the applicant reached across and picked up a piece of paper before giving them. PC Norton remained opposed to the application being granted.

████████ & ██████████ summed up by saying that what they need as local residents is a fresh meat shop, laundrette, dry cleaners and medical store, not another off-licence.

Mr. Panchal then summed up on behalf of the applicant. He said that he had referred the sub-committee members to the relevant legislation and the applicant had answered all of the questions. If all licensing objectives are promoted, all aspects including merits must

be looked at. He said there were so many merits of this business which would bring improvement and employment to the area. The outside vegetables were a worry but the applicant had made clear that the shelving would be no more than waist high and a clear view would be maintained into the premises at all times. He was aware of what licences would be required. He had experience and had showed the sub-committee how robustly the full licensing objectives would be promoted, the area lit, and the staff trained.

5. Determination of the Application

Pursuant to section 18(3) of Licensing Act 2003, the sub-committee had regard to the representations and considered which of the steps listed in section 18(4) (if any) it considered appropriate for the promotion of the licensing objectives namely:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm.

In making its decision the sub-committee also had regard to the Home Office Summary Review Guidance and Brent's licensing policy, including the fact that the premises fall within the CIZ in Neasden Town Centre. In addition, the sub-committee took account of its obligations under section 17 of the Crime and Disorder Act 1998.

6. Decision

The sub-committee listened carefully to the representations made by the parties at the hearing and took into account the written representations.

The sub-committee decided to reject the application for the following reasons:

- 1) There was no unique aspect to the business plan as it related to the sale of alcohol, and nothing to differentiate it from the other existing licensed premises in the area.
- 2) They were not satisfied from the application or the applicant's answers to questions that there was any evidence there would be no negative cumulative impact on the licensing objectives.
- 3) They were concerned that granting the licence would have a negative cumulative impact on the licensing objectives of preventing crime and disorder, upholding public safety and preventing public nuisance.

- 4) They were concerned that the applicant acknowledged how difficult it can be to avoid sales to street drinkers and that there was no evidence granting this licence would not have a negative cumulative impact on the licensing objectives, bearing in mind the existing similar premises in the immediate area.
- 5) They were concerned that the measures suggested to improve the areas outside the shop, including floodlights, would simply move problems along the road rather than preventing the shop from exacerbating the pre-existing problems in the area.
- 6) It was unclear precisely what proportion of the shop's income is intended to be alcohol sales. The applicant's agent described it as being 20-30% and the plan showed significant amounts of shelf space dedicated to alcohol displays, whilst the applicant himself described it as being only 10-15%.

7. Right of Appeal

The applicant and any person who made relevant representations has the right to appeal against this decision pursuant to section 181 and schedule 5 of the Licensing Act 2003.

If you wish to appeal you must notify Brent Magistrates' Court within a period of **21 days** starting with the day on which the Council notified you of this decision.

Dated 21st January 2021