



**(a) Application before the Sub-Committee**

The Licensing Compliance Officer, D Houghton introduced the application for a new premises licence at Aran's Barbers, 38 High Road, North Weald, Epping, Essex CM16 6BU.

The application was for the following licensing activities:

**The Sale by Retail of Alcohol (for consumption on the premises only):**

Monday to Sunday 12.00 – 19:00 hrs

**Opening Hours of the Premises**

Monday to Sunday 12:00 – 19:00 hrs

The application stated this was for on and off sales but this had since been changed to on sales only.

The application had been received on the 1 December 2021 and the Operating Schedule set out the conditions that would be attached to the licence, if the application were to be granted.

The responsible authorities had received a copy of the application. It had been advertised at the premises, in a local newspaper and all residences and businesses within 150 metre radius of the premises had been individually consulted.

The authority had received three representations of objection, one from North Weald Parish Council and two from local residents. The objections related to the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm. A response had also been received from Essex Police with recommendations, that had been agreed by the applicant.

**(b) Presentation of the Applicant's Case**

The Applicant Mr Enes Sanli advised that he was the owner of Aran's Barber Shop and stated that he would like to apply for an alcohol licence for Aran's Barbers for on sales only as he would like to be able to offer his customers a drink whilst they were waiting to have their hair cut.

**(c) Questions for the Applicant from the Sub-Committee**

Councillor M Sartin stated that the business seemed to be only operating between 12 noon and 7pm and asked if that was correct.

Mr Sanli advised that the barbers opened at 9am until 4.30pm but if they were busy it would stay open until 5pm.

Councillor Sartin replied that on the application the opening hours were from 12 noon to 7pm which doesn't tie in to what you are saying therefore could you clarify the opening times of the barber shop.

Mr Sanli confirmed that the opening hours of the barber shop were 9am until 4.30pm and he employed an agency to apply on his behalf and they have made a mistake.

The Licensing Compliance Officer confirmed the application that was being determined was for the opening and licensing hours from 12 noon to 7pm.

Councillor Sartin stated on that basis was Mr Sanli looking for an alcohol licence to run from 9am to 4.30pm.

Mr Sanli confirmed that was correct.

Councillor L Mead asked on average how long was each customer at the barbers for.

Mr Sanli advised it depended on what treatment they would have but normally an hour for a haircut but if they were having the full service, haircut, shave and facemask this could take two hours.

Councillor J Jennings asked if food was served with the alcohol.

Mr Sanli replied that they did not serve food but served tea and coffee on the house and wanted to be able to sell cold drinks and bottled beer.

Councillor Sartin asked if Mr Sanli had any previous experience of running an establishment like this.

Mr Sanli replied not as a barber shop but that he owned a restaurant in Wickford, Essex which was licensed to sell alcohol so he was fully aware of the licensing regulations.

Councillor Mead asked how the barbers was set up, were there any tables and chairs.

Mr Sanli advised that there was a bench along the wall for people waiting to sit on and when they are having their treatment there are 4 barber chairs set out with one metre between them. There was nowhere in the Barber shop that they could stand around drinking it would be whilst they were seated.

Councillor Sartin asked which newspaper the application was published in.

Mr Sanli replied that he did not know as agents had applied on his behalf.

Councillor Sartin stated that she had googled this and could not find anywhere local where this had been advertised and asked the Licensing Compliance Officer if she could inform the Sub-Committee.

The Licensing Compliance Officer advised that as far as she was aware it was published in the Epping Guardian.

Councillor Sartin asked if Mr Sanli, as the personal licence holder, would be on the premises the whole time or whether another member of his barber staff hold a personal licence to be able to serve alcohol.

Mr Sanli advised that he was the only personal licence holder and would be on the premises at all times until another member of the barber's will apply for his licence and then he will take over.

**(d) Questions for the Applicant from the Objectors**

On behalf of North Weald Parish Council, Mrs S De Luca, Clerk and asked when people went in for a haircut would they get offered an alcoholic drink immediately, whilst they were having their hair cut or afterwards.

Mr Sanli advised that it would be before or during their haircut and not afterwards.

Mrs De Luca advised that many residents had contacted the Parish Council to advise they did not see any newspaper advertisement and that the applicant had stated that he did not know the rules, although he had stated that he owned a restaurant.

Mr Sanli advised that he did know the rules around serving alcohol, he had been running a restaurant for three years and was a premises license holder. He wanted the barbers to stand out from other barbers and therefore would like to service his customers a bottle of beer whilst they were waiting or having their hair cut. He further stated that he was not aiming to turn the barbers into a drinking establishment it was purely another service he could offer to his customers.

**(e) Presentation from the Objector**

Mrs S De Luca advised that she had already passed on the Parish Council's objections to the Licensing Compliance Officer and asked if the Members had sight of them. She stated that the Parish Council was mainly concerned in the possible increase in anti-social behaviour if there was the sale of alcohol on the premises, but if it was only going to be sold to customers then that would be fine. She asked what guarantee was there and were there going to be any measures put in place that alcohol was only sold to customers and not sold to customers who were already intoxicated and also to be clear that there would be no off sales.

**Advice**

R Ferriera, Solicitor advised that representations, when made, had to be evidenced based and needed to be proved effectively that a particular venue would not meet the licensing objectives if it was granted. Representations cannot be based on a hunch or a suspicion that a risk may arise. If the licence was granted and the licensing conditions were breached then it could be brought back before another Licensing Sub-Committee to vary or have the licence revoked.

Kelsy Dott, representing Essex Police advised that the Police did not have any objections as conditions had been agreed with the applicant. The conditions were from the times as stated on the application from 12pm – 7pm but it would not make a massive difference if the Sub-Committee wanted to slightly alter the licensing hours.

**(f) Closing Statement from the Applicant**

Mr Sanli stated that he would like his barbers to be different from other barbers and to make more revenue by selling alcohol to his customers.

**(g) Consideration of the Application by the Sub-Committee**

The Chairman advised that the Sub-Committee would go into private deliberations to consider the application.

During their deliberations in private session the Sub-Committee received advice from the Legal Officer present:

(1) That the Licensing Sub Committee could amend the opening times of the premises and the times for the selling of alcohol.

The Sub-Committee noted all of the submissions and representations, both oral and written, that had been made in relation to the application and had considered what was appropriate to promote the four licensing objectives and the relevant parts of the Council's Licensing Policy and the Home Office's guidance.

**RESOLVED:**

That the application for a premises licence in respect of **Aran's Barbers, 38 High Road, North Weald, Epping, Essex CM16 6BU** be granted subject to the following conditions:

1. The conditions which are consistent with the Operating Schedule as varied by the conditions agreed with Essex Police on Pages 50 and 51 of the Agenda and those varied by this Licensing Sub-Committee which are:
  - (a) Page 33 of the Operating Schedule – "J" – to be amended to "on sales only";
  - (b) The Opening Times of the Premises to be amended to read Monday to Sunday 09.00 am to 5.00 pm; and
  - (c) The Sale of Retail of Alcohol to be amended to read Monday to Sunday 12:00 noon to 4.30 pm,

which the Licensing Sub-Committee considered were reasonable and proportionate, would not undermine the licensing objectives and struck a fair balance.

There was always the opportunity for a Licensing Sub-Committee at a later stage to vary or revoke a licence if any of the four licensing objectives were broken.

The applicants and the objectors are reminded of their right of appeal to the Magistrates Court within 21 days of date of the written notification of this decision.

**49. APPLICATION TO VARY AN EXISTING PREMISES LICENCE FOR PIYA KITCHEN, 74-76 HIGH STREET, EPPING, ESSEX, CM16 4AE**

The three councillors that presided over this application were Councillors J Jennings (Chairman), M Sartin and K Williamson.

The Chairman welcomed the applicants and asked if they would introduce themselves, there was David Tuit, Agent, Urmat Arslan, for Narts Food and Leisure Limited and Mahir Kilic, Agent. The Chairman introduced the members and officers present and outlined the procedure that would be followed for the determination of the application.

**(b) Application before the Sub-Committee**

The Licensing Compliance Officer, D Houghton introduced the application for a variation of an existing premises licence which had been made by Narts Food and Leisure Ltd, 53 High Street, Stoke Newington, London N16 8EL on behalf of Mr Ozgur Arslan, the Premises Licence Holder for a variation to the existing premises

licence at the above premises. The authority received the application on 9 December 2021. The application sets out the varied licensing activities applied for and the times requested.

The applicant has requested to change and remove the conditions listed as below:

- The rear garden area / rear courtyard area shall be cleared of all customers by 20.00 hours on any night; and
- The outside area of raised decking at the front of the building shall not be used by customers for eating and drinking after 21.30 hours on any night.

And to replace it with:

- The rear garden area / rear courtyard area shall be cleared of all customers by **22.00 hours** on any night; and
- The outside area of raised decking at the front of the building shall not be used by customers for eating and drinking after **22.00 hours** on any night.

The Responsible Authorities had all received a copy of the application, it was also advertised at the premises and in a local newspaper. All residences and businesses within 150 metre radius of the premises were individually consulted.

The Licensing Authority had received three representations, one from EFDC Environmental Health Noise Team, one from a local resident and one from a local business. The representations related to the prevention of public nuisance.

#### **(b) Presentation of the Applicant's Case**

Mr D Tuit advised that the application was fairly straightforward and sought to amend two conditions that were attached to the existing premises licence and relate to the hours of use of two separate external areas. Representations had been made by two persons and EFDC Environmental Health Services.

The premises was very much a local independent upmarket Turkish restaurant which was operated to a very high standard which has proved to be very popular since it first opened. It was a family run business in an increasingly competitive market. Mr Arslan took over the site in early 2020 and after a period of refurbishment opened in August 2020. The hospitality sector had been hit extremely hard by the pandemic and the periods of lock-down that were being imposed by the Government.

The application to vary the conditions was for the applicant to be able to undertake outdoor dining and socialising and provisions as set out under the Business and Planning Act 2020 which sought to encourage alfresco dining and socialising. It would also enable the premises to take more sittings in these external areas. This was essentially the basis upon which this application to vary the conditions was made.

The applicant did not want to come across as dismissive to the issues and concerns raised by the objectors but by granting the variation he feels would not undermine the licensing objectives. We are unsure of the representation from Kenneth Wells Solicitors as when I tried to phone them at 8.30pm yesterday evening I received an answerphone message saying that the office closed at 5.30pm so we are not sure why they would have objections. With regard to the representation from the resident, the applicant was in the process of addressing his concerns and a planning

application was in progress at present and as part of the application an acoustic report would be submitted.

Representations need to be evidence based rather than speculation and as there was an absence of representation from the police which should be noted. We do however note the representation from the Environmental Officer but that was about noise.

Therefore on that basis we do respectfully ask that the conditions for a variation to the licensing conditions be granted.

**(c) Questions for the Applicant from the Sub-Committee**

Councillor K Williamson asked about the playing of music in the rear and front areas could the applicant advise us of their intentions.

Mr Tuit advised that the reason that music was not detailed in the licence was because those activities during these hours would be exempt under the Live Music Act and the deregulation of further types of entertainment.

Mr Arslan advised that the music was played through two speakers but they were no longer active in the rear or the front garden.

Councillor Sartin asked if the outside area was a dining area with tables and chairs as there was reference to an area which sounded like it was a party area. She asked the applicant if they could clarify what the outside areas were used for.

Mr Tuit advised that the premises was a full dining seated restaurant in all areas. He stipulated that there was no vertical drinking area within the premises.

Councillor Sartin highlighted the reference to entertainment and asked if this was in the form of live music and singers and if so did they perform in the outside area.

Mr Tuit advised that the licensee did have live music and singers occasionally and previously they have been in the outdoor area or projected to the outdoor areas. All speakers and sound making equipment has been disconnected and removed from the outside areas.

Councillor Jennings stated that although the speakers and sound equipment from the outside areas had been removed a portable microphone could be used and by the singer walking around all areas of the restaurant.

Mr Killic replied that there was no structure at the premises for this to happen, the business was primarily a restaurant throughout the day and night. Occasionally there were bookings for birthday and engagement parties but there would be no singers with a microphone walking around the premises.

Councillor Jennings asked if there was a roof garden on top of the building.

Mr Tuit replied that there wasn't any roof garden as the premises was a single story structure.

**(d) Questions for the Applicant from the Objectors**

Gary Keegan stated he was a resident and was only able to speak about the rear garden area and advised that he had no problems with the front of the premises or the restaurant.

Mr Keegan asked the applicant if he understood the conditions attached to the original licence when he agreed to them and do you understand the conditions of the licence now and not the new ones he was applying for now. The original conditions stated that the rear garden area was to be cleared of customers by 8pm every night.

Mr Arslan replied yes.

Mr Keegan asked why was there parties and music in the rear garden going well past 8pm all through the summer of last year.

Mr Killic stated that Mr Keegan's question was bring doubts to the Councillors as there had only been three birthday parties since the lockdown had finished and whereby Mr Keegan had made complaints on one or two occasions which resulted in Council Officers visiting the premises. Mr Arslan then took immediate action by disconnecting the speakers. Mr Killic advised that Mr Keegan should not be trying to introduce new evidence.

Mr Keegan stated that he was not introducing new evidence as it was all in his objection.

Mr Killic stated that customers could use the garden until whatever time they wished to so long as they were not being served alcohol and they were not causing a disturbance. He then stated that the consumption of alcohol brought onto the premises by the customer was not a licensable activity and serving hot food before 11pm was not a licensable activity. So anyone come to the restaurant, bring their own wine and sit in the garden area and order food from the premises, these actions are not licensable activities before 11pm. It's the sale of alcohol that was licensable in that area after 8pm. Therefore your objection was questionable as no licensable activities were being carried out after 8pm and you cannot prove that they were.

Mr Keegan advised Mr Killic to read the licence as it stated that the rear garden was to be clear of customers by 8pm each night.

The Council's solicitor, Rosaline Ferreira advised that the licence stated that the rear courtyard shall be cleared of all customers by 8pm every night and it doesn't matter whether you sell alcohol or the customers bring in their own alcohol it was a condition of the licence that the rear garden was to be cleared and does not relate to a licensable activity it was a condition of the licence being granted and therefore it applies.

Councillor Jennings stated that the question Mr Keegan asked Mr Arslan related to allowing the back garden to be used after 8pm each night and it was a condition of the licence that the rear garden was to be cleared of all customers by 8pm every evening.

Mr Keegan advised that the premises was regularly using the back garden area after 8pm sometimes until 11pm and later.

Rosaline Ferreira advised that if the garden area was being used after 8pm on any night then that was a breach of the licence.

Mr Killic stated that Mr Keegan was introducing new evidence that was not stated in his letter of objection and if that was the case where was the evidence to support it.

Mr Killic also stated that in his opinion as no licensable activities were taking place after 8pm the conditions were not enforceable.

The Environmental Enforcement Officer, Richard Thomason advised that he had been contacted by a complainant with regard to both loud music and people noise emanating from the back garden area. By people noise this was loud conversations, shouting and laughing.

There have been at least three instances of complaint and I would like to make it clear that an officer did not go out and witness these events but I would like to speak about the events that have been logged:

- Friday 22 October 2021 - Live singing followed by loud music until 11.30pm;
- Saturday 30 October 2021 – Customers in the garden until 10.45pm, party type loud conversation which could be heard clearly; and
- Friday 13 and Saturday 14 November 2021 – Loud partying and shouting and conversations which could be clearly heard going on until after 11pm.

One of the main problems over the garden area was a vinyl roof which was no more than a canopy and has no acoustic attenuation. Possibly up to 8pm at night that might be acceptable or liveable for some residents but at 10pm with 12 tables of up to four people all laughing and chatting would cause a disturbance to the surrounding residents. The residential properties to the rear of the premises are no more than 20 feet away and in the summer when windows are open because it was warm you would be able to hear those conversations inside your house and that would be a concern at 10pm.

Mr Tuit asked Mr Thomason if the complaints were from the same complainant or numerous complainants.

Mr Thomason advised that he could not say who they were from but they were from the same source.

#### **(e) Closing Statement from the Objector**

Mr Keegan stated that as the Environmental Enforcement Officer has spoken about the plastic roof that opened and its lack of soundproofing properties, he thought it was fair to mention that the plastic roof was not supposed to be there at all. The garden area was supposed to have a flat solid roof to help deaden any noise from the main restaurant, the back garden was designated for storage only and there were not supposed to be any customers in the rear garden at any time, yet the applicant has been granted an alcohol and entertainment licence and I am not sure how that happened. The Applicant as stated previously had ignored all the conditions of their licence and did not care about his neighbours, he caused as much disturbance as he thinks he can get away with. In my opinion not only should this variation to the licence not be allowed, the rear garden area licence should be revisited, because it should not have been granted in the first instance and maybe the different regimes that deal with these types of premises should communicate with each other.

**(f) Closing Statement from the Applicant**

Mr Tuit asked if Mr Keegan and Mr Thomason had any objections to the variation of the licence for the front area of the restaurant.

Mr Keegan stated that he had no problem with the main restaurant and had visited it before the new applicant had taken over and there were never any complaints, he stated that he had no problem with the front of the restaurant.

Mr Thomason stated that he had no issues with regard to the front of the restaurant.

Mr Tuit stated that there had been some concerns raised about the use and activity in the rear garden and advised that there was a planning application which had been validated and as part of that application an acoustic report would be required and the applicants were prepared to take readings from neighbouring properties. He confirmed that the speakers had been removed from the rear garden and any live performers would be located inside the restaurant with their sound making equipment. It was hoped that with those measures in place that you will be minded to grant the variation to the licence on both parts of the premises.

**(g) Consideration of the Application by the Sub-Committee**

The Chairman advised that the Sub-Committee would go into private deliberations to consider the application.

During their deliberations the Sub-Committee received further advice from the Legal Officer present:

“That the Licensing Sub-Committee could only address the conditions which have been specified in the application.”

The Sub-Committee noted all of the submissions and representations that had been made in relation to the application and had considered what was appropriate to promote the four licensing objectives and the relevant parts of the Council's Licensing Policy and the Home Office's guidance.

**RESOLVED:**

The decision of this Licensing Sub-Committee was that the application to vary the premises licence in respect of **PIYA KITCHEN, 74-75 HIGH STREET, EPPING, ESSEX CM16 4AE** had been partially granted on the following basis, subject to the existing conditions which in the opinion of this Sub-Committee are reasonable, proportionate and in the public interest for the promotion of the licensing objectives:

- The variation to the rear garden area / rear courtyard area had not been granted and the condition that “the rear garden area / rear courtyard area shall be cleared of all customers by 20.00 pm on any night” must remain. To extend the period of time in accordance with the application would be contrary to the licensing objective relating to public nuisance in that it would adversely affect persons living in the area around the premises as the evidence from EFDC Environmental Enforcement Officer was that the level of noise which would be emanating from the area concerned would be difficult to control.
- The variation to the outside area of raised decking to the front had been granted, namely that “the outside area of raised decking at the front of the

building shall not be used by customers for eating and drinking after 22.00 pm on any night”.

This Licensing Sub-Committee was mindful of the premises and also its proximity to residential premises in the surrounding area and by amending the application as mentioned above it would strike a fair balance with the concerns raised and which the Sub-Committee shared and would not have an adverse effect on the promotion of the licensing objectives.

The applicant was also reminded that if the conditions of the Licence were breached, the matter could be reviewed by a Licensing Sub-Committee and the premises licence could be varied or revoked.

The applicant and persons who made relevant representations were reminded of their right of appeal to the Magistrates Court within 21 days of date of the written notification of this decision.

**CHAIRMAN**