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Cc: [Chairman](#)
Subject: KFC, 54 Queensway - 22/05688/LIPN
Date: 01 August 2022 10:58:51
Attachments: [image001.png](#)
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[image004.png](#)

Dear all,

I have been asked to represent SEBRA at the hearing of this application on Thursday 4th August.

John Zamit of SEBRA will be attending the hearing. Mr Zamit wishes to call Cllr Dupuy as a witness in support of SEBRA's representation, particularly the impact of late night refreshment takeaway/delivery premises on local residents.

I write to set out SEBRA's response to the documentation in the LSC Report.

1. SEBRA's representation raises concerns about the impact of the application on public nuisance and crime and disorder. 54 Queensway is opposite a large residential block, Princess Court. There are other large residential buildings in the immediate vicinity. The premises operates as a 'fast food' takeaway business and therefore engages policy FFP1. The application does not refer to deliveries of late night refreshment, although it is anticipated that the applicant does intend to operate in that way. If that is the case, policy DEL1 is also relevant.
2. SEBRA point out that the premises is situated in a 'Special Consideration Zone', and report that they are aware of problems associated with the premises in terms of noise with delivery bikes and scooters illegally parked up and parked on the public pavement outside the premises. In this context, it is highly surprising that the application does not make reference to deliveries nor to any mitigation proposed.
3. In particular there is nothing in the application which would prevent takeaway and/or deliveries of late night refreshment after 11pm. This is the chief source of SEBRA's concerns. They have expressed these concerns on other applications on Queensway, which have restricted takeaways/delivery to finish at 11pm.
4. Indeed, these issues have already been considered in some detail for this premises by the Council as the Planning Authority, which has previously refused an application to extend opening hours beyond the current permitted hours and refused an application for a delivery service. These decisions were largely upheld on appeal, although a delivery service was permitted to 11pm. SEBRA did append the planning appeal decision to their representation although it is not in the LSC Report. We have been told that it will be included in the additional documentation.
5. There were two linked planning appeals. One was to remove these conditions:

(3) Customers shall not be permitted within the takeaway premises before 08:00 or after 23:00 on any day of the week.
(4) The plant/machinery in connection with the takeaway use shall not be operated except between the hours of 08:00 to 23:00 on any day of the week

This appeal was dismissed.

6. The other was to remove this condition:

(9) You must not operate a delivery service, nor shall the premises utilise a delivery and collections service operated by third parties, for the takeaway use hereby approved.

This appeal was allowed, but with conditions including:

(7) Any delivery service operated from the site must not operate before 0800 hours or after 2300 hours on any day of the week.

7. Therefore the licence application goes beyond what the planning permission permits in terms of hours customers can be on the premises (and therefore take food away), use of plant/machinery, and utilisation of a delivery service after 11pm. The licence application is not made in the context of planning permission having been granted, or a planning application pending determination. The Planning Authority and Planning Inspectorate have specifically considered the impact of these activities and decided that they are not appropriate.

8. Policy FFP1 applies to premises which are defined in the Statement of Licensing Policy (SoLP) as:

'1. A premises that provides late night refreshment, either by way of fast food over a counter, via a self-seating basis or take away for immediate consumption. 2. Food and drink are: a. Available on the premises for self-selection. b. Prepared on the premises. c. Cooked or produced off the premises but brought to that premises in advance of its sale to customers. 3. The food and drink are provided in pre-sealed or open disposable packaging which is intended for immediate consumption. 4. A fast-food premises can provide a delivery service as part of its operation, however that service must be ancillary to the main function of the premises as defined within sub-clauses D,1 to D,3 above.'

The policy requires applications to demonstrate that the application complies *inter alia* with policies PN1 and CD1; policy DEL1 if a delivery service is operated; the applicant has taken account of policy SCZ1.

9. SEBRA does not consider that the application complies with these policies. The reasons for policy FFP1 are set out at F56:

'Fast food premises which are open after 11pm can attract large groups of customers, many of whom have been consuming alcohol in pubs, bars, or night clubs sometimes some distance away. The congregation of people around these premises leads to additional noise and disturbance and further congestion in the area. Although premises which serve cold food and drink are not subject to licensing and may stay open all night, they are not so attractive to people who have been drinking as those providing hot food and drink. The council considers that the addition of hot fast food and hot drink adds to the attractiveness of premises to people who have been drinking and who are more likely to be involved in anti-social behaviour.'

10. Policy SCZ1 refers to the identified problem of 'Elevated levels of noise nuisance at night'. The two main sources of elevated noise nuisance at night in respect of this premises are noise from customers attending the premises and taking food away for immediate consumption (as per para F56 above) and noise related to deliveries. There is little indication in the LSC Report that the applicant has considered and/or mitigated these issues.

11. Policy DEL1 has criteria which are similar to FFP1 but includes a requirement that an applicant will, *'a. implement their own procedures and provide mitigation to reduce the risk that their delivery service and delivery personnel will create public nuisance either at the premises where the delivery*

originates and at the delivery destination, and/or b. ensure that any third party, to which they have contracted their delivery service to have sufficient procedures and mitigation in place to ensure that their delivery personnel do not create public nuisance either at the premises where the delivery originates and at the delivery destination.'

12. Non-compliance with the criteria identified in DEL1 brings into play a raft of other considerations – see p114-115 of the SoLP. The rationale for policy DEL1 is set out at G4:

'The Licensing Authority is concerned with the growing levels of residential complaints and issues associated with public nuisance that is either generated at or in the general vicinity of the licensed premises where deliveries are collected or at the end destination where the delivery is made. Complaints often relate to noise from delivery personnel waiting around the licensed premises or from their delivery vehicles. Applicants must consider the potential impact of noise nuisance from delivery personnel and their vehicles at the licensed premises or at the end destination. Appropriate waiting areas inside the licensed premises must be provided to prevent delivery personnel congregating outside the venue.'

13. In conclusion, SEBRA is very concerned at the impact of the provision of late night refreshment for takeaway/delivery at this site. They consider that the application is not compliant with the relevant provisions of the SoLP and ask the Sub-Committee to refuse the application.

Kind regards,

Richard

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