

IN THE MATTER OF THE LICENSING ACT 2003

AND IN THE MATTER OF COYA RESTAURANT, 118-119 PICCADILLY, W1J 7NW

APPLICANT'S SUBMISSIONS

Background

1. The premises opened in November 2012 as a restaurant specialising in Peruvian cuisine. The team behind the restaurant is headed by Mr Arjun Waney OBE, whose other restaurants include La Petite Maison, Zuma, Roka and the Arts Club.
2. The Applicant contends that the wording of the condition was recorded in 2011 incorrectly, namely the words "by customers" are missing. It should have read:

*'The rear doors leading to Down Street Mews shall not be used **by customers** except in case of emergency.'*

3. The original premises licence was granted by the Licensing Sub-Committee on 3 February 2011. The minutes stated:

*'The Sub-Committee in reaching their decision took into account local residents' concerns. Mr Bell and Mr Buela who attended the meeting expressed concerns regarding the rear doors leading to Down Street Mews being used for entry and exit up to 22:00 hours. Mr Grant had informed Members that **the intention was to allow VIPs in via this entrance** up to 22:00 hours. Mr Bell emphasized that Down Street Mews was small and confined and vehicles were not able to turn round or park in the Mews. **Mr Bell and Mr Buela also considered that VIPs or celebrities were likely to cause people to congregate in the area, adversely affecting residents.** Discussion ensued and Mr Grant on behalf of the Applicants agreed that the rear doors leading to Down Street Mews would not be used. The Sub-Committee attached a condition to the licence **to this effect** [Emphasis added].'*

4. As can be seen in the Minutes, the applicant's original intention in 2011 was to allow customers, in particular VIPs, to use the rear doors on Down Street Mews to enter and exit the premises.
5. There is no indication or evidence in the Minutes that the residents objected to the use of the rear doors by staff or by third-party contractors for the purposes of servicing the restaurant.

The Application

6. On advice from Mr Sycamore of the Licensing Service and in order to regularise the position, the application proposes to vary condition 18 of the premises licence to re-introduce the words “by customers” which should have been the wording of the condition when the premises licence was originally granted in 2011.
7. The applicant’s position is consistent with and supported by the A3 planning permission granted the following month on 10 March 2011. This planning consent included condition 5, which states:

“The rear entrance doors leading to the basement from Down Street Mews shall not be used by any customers of the restaurant, except as an exit in an emergency”

8. In addition, condition 6 of the planning consent anticipates and approves the use of the rear doors:

“The deliveries to the restaurant in Down Street Mews must not take place except between the hours of 08:00 and 18:00 hours”

Location

9. The customer entrance is located at 118 – 119 Piccadilly. The restaurant backs on Down Street Mews. Down Street Mews is accessible via a side road, Down Street, off Piccadilly.
10. Down Street Mews comprises mixed uses, including the rear the restaurant, the rear of the Cavalry and Guards Club, offices, existing residential and newly built residential units. The new residential units received planning consent in 2016, by which time the restaurant had been operating for 4 years.
11. The Mews is used as an access point and servicing area for all of the Mews occupants. A number of the Mews occupants (including the applicant) and developer have cooperated in recent years in respect of improvement works following the new residential development. These works include improvements to the paving, general cleansing, management procedures and the installation of gates at the junction of Down Street.
12. The restaurant has 2 rear doors leading onto Down Street Mews:
 - a) Rear door 1 is located immediately adjacent to the restaurant’s approved bin store and leads down to the restaurant kitchen and back of house areas at basement level;
 - b) Rear door 2 is located a few metres to the East of rear door 1. It leads to staff facilities, including a staff changing room and locker area at ground floor level.

Both doors were approved by planning.

Use of Rear Doors

13. The use of the rear doors is used for:

- a) To accept deliveries between the hours permitted by condition 6 of the planning consent.
- b) To move waste from the restaurant to the approved bin store located adjacent to the rear door 1 on Down Street Mews.
- c) To allow staff to undertake their duties, for example cleansing of the Mews, accepting deliveries (as above) and moving waste from the bin store to the allocated collection point (also as above).
- d) Staff temporarily leaving the premises for breaks. For the avoidance of any doubt, staff are not permitted to loiter in the Mews during their breaks.
- e) To allow staff to enter and exit the premises at the start and end of their shift. The staff changing room and locker area is located at the rear of the premises on Down Street Mews, accessible via rear door 2. This access door is independent of rear door 1.
- f) As an exit in cases of emergency.

14. It is not possible or safe for deliveries or waste to pass through the main restaurant. Neither is it appropriate for staff to enter or leave via this route.

15. Similarly, it is not possible for staff (particularly back-of-house and kitchen staff) to pass through the restaurant at the start or end of their shift.

Conditions

16. Whilst the applicant contends the existing condition was recorded in error, it nonetheless and in addition proposes the following additional restrictions and conditions:

06:00 – 20:00	08:00 – 18:00	06:00 – 00:00	After 00:00
Waste Collections	Deliveries	Waste taken to refuse store	Staff departing at end of shift

- a) The rear doors leading to Down Street Mews shall not be used after 00:00 except for the purposes of staff leaving the premises at the end of their shift or as an emergency exit.*
- b) No deliveries to the premises shall take place via Down Street Mews between 18.00 and 08.00 on the following day.*

- c) A SIA registered street marshal shall be employed from 22:00 until close to supervise activity in Down Street Mews.*
- d) Written procedures concerning the limited use of Down Street Mews permitted shall be available for inspection by the licensing authority. These will be provided to all staff as part of their induction and to the SIA registered street marshal.*
- e) During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in Down Street Mews, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.*

Complaints & Objections

- 17. The applicant has engaged with the residents and Mews developers since opening the restaurant in 2012. This includes attending a significant number of meetings and lengthy written correspondence over the years.
- 18. A significant amount of feedback relates to the placing of rubbish bins in the Mews. The applicant places bins outside ahead of the scheduled collection times by Westminster City Council's refuse collection services. All occupiers of the Mews, including the residents, place their bins in the Mews.
- 19. The restaurant's management team have witnessed noise emanating from parties (including flats advertised on (Air BnB) in residential units overlooking Down Street Mews and activity to the rear of the Cavalry and Guards Club. The applicant has submitted an example in a photograph of party goers drinking outside a residential flat located above the restaurant during the late evening of 27 September 2019.

Observations

- 20. On 5 December 2019, Mr Chris Banks, a principle acoustic consultant of Hydrock Consultants, made an unannounced evening visit to observe the restaurant's managerial and physical mitigation and noise control measures within the Mews.
- 21. Mr Banks concluded that:
 - a) There was no evidence that the restaurant was causing public nuisance; and
 - b) He witnessed other sources of noise and activity in the area unrelated to the restaurant.

- c) Mr Banks did not observe any breaches of the restaurant's planning conditions relating to the use of the Mews, however did note a number of customers exiting the rear of the Cavalry and Guards Club, which is adjacent to the restaurant.

22. The applicant understands that Mr David Sycamore of the City Council's Licensing Inspectorate made his own covert observations in respect of the applicant's use of the Mews in late 2019. Mr Sycamore has confirmed that:

"the rear doors were in frequent use whilst the premises was in operation, but ... the staff did not contribute to any nuisance in the area whilst I was there".

23. Mr Sycamore's observations are consistent with the findings of Mr Banks, and also the applicant's own on-the-ground experience in the Mews. Indeed, no nuisance has been witnessed by officers from the City Council.

24. The following additional measures have been agreed with Mr Nevitt of the City Council's Environmental Health Consultation Team:

- a) adjustments to the rear self-closing and locking mechanisms of the doors to ensure a quieter closure and to avoid noise from slamming;
- b) raising door 1, also to ensure a quieter closure and to avoid noise from slamming;
- c) management meeting with the applicant's third-party cleaning contractors about undertaking their duties quietly at night. The cleaning supervisors have provided reassurances that the cleaner's duties will be undertaken quietly, and all cleaning staff will be re-briefed accordingly.
- d) installation of new CCTV camera in the Mews to monitor activity in the Mews and to confirm that the applicant's business operation is not a source of nuisance to local residents.