

Application to vary premises licence, ref: 20/00187/LIPV

'Coya', Newton House, 118-119 Piccadilly, London W1J 7NW

Submission on behalf of objectors

Preliminary observations

1. The application seeks to amend a single condition of the premises licence. This condition as currently worded is of vital importance to occupants of the houses and apartments situated to the rear of 'Coya', both in Down Street Mews itself and on Down Street overlooking the Mews.
2. The Mews is almost entirely enclosed, save for the narrow entrance, and is bounded on three sides by residential properties. Noisy activity, loitering and littering in the Mews, particularly in the evening and at night, is therefore likely to cause a nuisance and impinge on the promotion of the licensing objectives.
3. I understand that some photos will shortly be submitted showing the vantage points of these various residents who overlook the Mews and, in particular, the rear of 'Coya'.
4. The effect of granting the application would be to permit the rear doors leading to Down Street Mews to be used for any purpose except by customers, at any time of the day or night.
5. The applicant must persuade the Sub-Committee that the application, if granted, would promote the licensing objectives. The objectors are clear that the 'likely' effect of granting the application will fail to promote the licensing objectives.
6. In fact, in this particular case, the objectors are able to demonstrate that granting the application *will* harm the licensing objectives. Despite the existence of the condition, the rear doors have nevertheless been used on a regular, frequent and ongoing basis for many years. This has resulted in nuisance, documented in the representations and in complaints made to the Council.
7. There is no explanation, or at least no adequate explanation, why the applicant has seemingly ignored the condition for many years. My clients wish to particularly emphasise this point to the Sub-Committee. The objectors are also perplexed that there has been no effective enforcement of this condition from the authorities.
8. Residents have experienced other problems related to the operation of the premises, which remain unresolved.

The application and the reasons for the objections

9. The applicant has claimed that the wording of the condition is incorrect, in that there was a typographical error. The Licensing Service has rejected this suggestion (see email from David

Sycamore to Jack Spiegler on 11.12.19 at p54 of the LSC Report) and confirmed that the condition is '*correctly attached*' to the licence.

10. Mr Nevitt's representation for the Environmental Health Service states that '*Condition 18 was imposed at a Committee Hearing in order to reduce the risk of nuisance to the occupiers of residential dwellings at the Mews...particularly late at night.*'
11. In 2011, the licensing authority resolved to grant a premises licence in respect of 118-119 Piccadilly. The Sub-Committee deemed it 'necessary' (the threshold at the time) to impose a condition that '*The rear doors leading to Down Street Mews shall not be used except in case of emergency.*' It is evident from the decision notice included in the LSC Report that the Sub-Committee imposed this condition following a discussion between the parties and evidence from residents about likely nuisance.
12. The repeated and ongoing breaches of the condition are difficult to understand, given that the condition was imposed by a Licensing Sub-Committee when granting the premises licence. My clients suggest that this course of conduct from the applicant is a very material factor for the Sub-Committee to consider.
13. If the applicant disputed the wording of the condition, it could and should have been brought to the attention of the licensing authority when the decision notice was published. Had the licensing authority confirmed that the condition was, in their view, correct, the applicant could have appealed the decision in the usual way.
14. Mr Sycamore also stated in his email of 11.12.19 that '*unless removed via a full variation (the condition) must be adhered to.*' Despite this firm indication and being fully aware that complaints have been received, my instructions are that the condition has continued to be breached.
15. The representations set out the history of use of the doors in breach of the condition, and the nuisance which has resulted. Objectors will speak to this in more detail at the hearing.
16. One of the doors leads to a staff changing area. The other door leads into the restaurant. I am instructed that there is a particularly intensive use of these doors because there is no access from the staff changing room to the restaurant without exiting one door and entering through the other. I am instructed that the management has chosen not to internally connect the changing room and the restaurant and not to use the restaurant front door on Piccadilly for staff use. The doors are also used to remove waste/refuse from the premises.
17. One of the residents describes the result of this as follows: '*Therefore the common use of the doors is as follows: (1) to enter the change room, (2) to exit the change room, (3) to enter the restaurant, (4) to exit the restaurant at break, (5) to enter change room to use facilities, (6) to exit change room to go out side for smoke, (7) to come back to work after break, (8) to leave work at the end of their shift, (9) to enter the change room to change, and (10) to exit the change room to go home. This applies to each of the applicant's staff, at any time night*

or day, 7 days a week, 365 days a year.' The doors are also used to remove waste/refuse from the premises.

18. Each of these instances can cause a nuisance. The premises licence permits the premises to be open to the public until 1.30am Mon-Sun. After this, staff have to leave and the premises is serviced by e.g. cleaning staff. The doors have therefore been in use well into the night.
19. The report from Hydrock appears to bear out that noise is liable to escape from the premises when the doors are in use. The report acknowledges that noise can be heard from the top of the stairwell just before exiting the rear doors, and concedes that the applicant would have to install double fire doors to limit the noise travelling outside as staff enter and exit.
20. It is not accepted that it would be 'impossible' to service the restaurant, as there is access at the front of the premises.

Contact with management

21. Residents have made complaints directly to the management, and have raised this and other issues with them, to no avail.
22. Residents are very mindful that it is in everyone's mutual interests for commercial and residential occupiers to work with each other when their interests do not coalesce. I am instructed that residents have made proposals to compromise on the use of the rear doors, but these have been rejected out of hand by the applicant.

Conclusion

23. There are numerous references in the representations (and indeed in Mr Sycamore's email on p.54) to complaints made to the Council. No such list has been provided in the LSC Report, and my clients ask that Environmental Health produces a full list of complaints in respect of the premises.
24. Residents ask that the Sub-Committee refuse the application. Residents would then expect enforcement action to be undertaken should the applicant continue to operate otherwise than in accordance with the condition.
25. That said, my clients would be happy to further explore any possible compromises, should the applicant have changed its position in this regard.

Richard Brown

2.3.20